

10:35 1 Justice had other documents under that grand jury subpoena log,
2 which weren't really relevant to this complaint.

3 JUDGE PORTEOUS: See, I have no way to know that
4 because I've never seen them.

10:35 5 CHIEF JUDGE JONES: As you know, Judge Porteous, the
6 grand jury investigation included a lot of people over a course
7 of years. So, we have no reason to question if the Justice
8 Department has produced those that are relevant to you.

9 JUDGE PORTEOUS: You mean people on call here for this
10:36 10 hearing?

11 CHIEF JUDGE JONES: There were people, I'm sure, who
12 are on call. There are people who pled guilty and served jail
13 time as a result of this investigation. So, I don't see why
14 those documents have anything to do with you or why they should
10:36 15 have been produced.

16 JUDGE PORTEOUS: Well, again, we're using -- I
17 understand. I'll -- okay, your Honor.

18 CHIEF JUDGE JONES: All right, sir.

19 MR. WOODS: We would call as our next witness Judge
10:36 20 Porteous.

21 JUDGE PORTEOUS: And, Judge, on that issue, I just on
22 Friday realized I was going to be given immunity and just
23 hadn't had time to adequately contemplate the testimony. I
24 mean, I've been working on everything else.

10:36 25 I would simply ask that I be given through today

Cheryll K. Barron, CSR, CM, FCRR

713.250.5585

HP Exhibit 10

10:36 1 to at least get my thoughts together before I am compelled to
2 testify. Mr. Woods had that immunity notice; and I just saw it
3 today, just saw it for the first time today.

4 MR. WOODS: It was provided on Friday, your Honor.

10:36 5 JUDGE PORTEOUS: Yeah, on Friday. I understand. No.
6 The log was provided on Friday.

7 MR. WOODS: Right.

8 JUDGE PORTEOUS: The document was not provided on
9 Friday, and you know that.

10:37 10 MR. WOODS: That's correct.

11 CHIEF JUDGE JONES: All right, sir. We're not going
12 to go crosswise with each other. Thank you very much.

13 JUDGE PORTEOUS: I'm sorry, Judge.

14 CHIEF JUDGE JONES: Mr. Finder will to respond.

10:37 15 MR. FINDER: Yes, thank you, Judge. Under the rules
16 under which we're operating, Rule 10C, Special Committee
17 Witness.

18 CHIEF JUDGE JONES: You want to speak up there?

19 MR. FINDER: Yeah, I'm sorry. I'll use the podium.

10:37 20 Is this better?

21 CHIEF JUDGE JONES: Yes.

22 MR. FINDER: "All persons who are believed to have
23 substantial information will be called as Special Committee
24 witnesses, including the complainant and the subject judge."

10:37 25 So, I think that there is no surprise here. It's

10:37 1 in the rules, which were provided a long, long time ago.

2 JUDGE PORTEOUS: I don't doubt that that's what the
3 rules say, your Honor. I'm not taking issue with that. I'm
4 taking issue with the fact that it's the first time I've been
10:37 5 given immunity, without ever seeing the document.

6 CHIEF JUDGE JONES: Well, with --

7 JUDGE PORTEOUS: I'm only asking for the rest of the
8 day.

9 CHIEF JUDGE JONES: -- immunity is better than non
10:38 10 immunity, sir. Continuance is denied. You may take the stand.

11 JUDGE PORTEOUS: All right.

12 CHIEF JUDGE JONES: Thank you.

13 JUDGE LAKE: Raise your right hand to be sworn.

14 You do solemnly swear that the testimony you
10:38 15 shall give in this proceeding will be the truth, the whole
16 truth, and nothing but the truth, so help you God?

17 JUDGE PORTEOUS: I do.

18 **GABRIEL THOMAS PORTEOUS, JR., DULY SWORN, TESTIFIED:**

19 **DIRECT EXAMINATION**

10:38 20 BY MR. FINDER:

21 Q. Judge Porteous, a little background information, please.

22 You were a judge in the 24th Judicial District
23 Court in the State of Louisiana from approximately 1984 to
24 October 1994. Is that correct?

10:38 25 A. That's correct.

10:38 1 Q. And prior to taking that judicial office, you were employed
2 as special counsel to the office of the Louisiana Attorney
3 General from approximately 1971 to approximately 1973. Is that
4 correct?

10:38 5 A. I believe that's correct.

6 Q. You were also a prosecutor and assistant district attorney
7 of Jefferson Parish, Louisiana, from approximately 1973 to
8 1975. Is that correct?

9 A. I'm sorry. Would you -- I'm sorry.

10:39 10 Q. I'm sorry. 1973 to approximately 1975?

11 A. I was what? I'm sorry.

12 Q. An assistant district attorney of Jefferson Parish?

13 A. I was an assistant DA from -- until I took the state bench.

14 Q. Okay. So, I'm incorrect, then?

10:39 15 A. I was an assistant DA from some -- some period of time,
16 probably '73 through '84.

17 Q. Okay. And you were also city attorney for Harahan,
18 Louisiana, from 1982 to 1984?

19 A. That sounds correct.

10:39 20 Q. Okay. You were nominated by the President of the United
21 States on August 25th, 1994, to become a United States district
22 judge. Is that correct?

23 A. Right.

24 Q. You were confirmed by the Senate on October 7th, 1994; and
10:39 25 at that time received your commission as a US district judge on

10:39 1 October 11th. Is that correct?

2 A. That is correct.

3 Q. And from that date to the present, you have been bound by
4 the Code of Conduct for United States Judges, correct?

10:40 5 A. Correct.

6 MR. FINDER: Your Honors, I'm going to be walking up
7 and back to use the Elmo; so, that's the reason I'm going to be
8 a little mobile here.

9 THE WITNESS: Put it right here if you want.

10:40 10 MR. FINDER: Okay. Thank you, sir.

11 BY MR. FINDER:

12 Q. Judge Porteous, I've marked for identification --

13 JUDGE BENAVIDES: Mr. Finder, you're going to have to
14 speak a little louder since you'll have your back to the
10:40 15 reporter.

16 MR. FINDER: Oh, forgive me. All right.

17 BY MR. FINDER:

18 Q. I've marked for identification purposes only as Exhibit 80,
19 a book called "Getting Started as a Federal Judge."

10:40 20 Judge Porteous, I'm going to -- this book, as
21 you'll see, bears a date of July of 1997, approximately three
22 years after you took the bench, correct?

23 A. It says that, yes.

24 Q. After you received your commission, Judge Porteous, you
10:41 25 took an oath of office, correct?

10:41 1 A. Yes.
2 Q. And that's a statutory oath, is it not?
3 A. Correct.
4 Q. I'd ask you to read along with me.
10:41 5 A. I cannot -- well, go ahead.
6 Q. Okay. Well, let's try and make it --
7 A. Just read it. I can --
8 Q. Okay. "I, your name, do solemnly swear or affirm that I
9 will administer justice without respect to persons and do equal
10:41 10 right to the poor and to the rich and that I will faithfully
11 and impartially discharge or perform all the duties incumbent
12 on me as a United States District Judge under the Constitution
13 and laws of the United States and that I will support and
14 defend the Constitution of the United States against all
10:41 15 enemies, foreign and domestic, that I will bear true faith and
16 allegiance to the same, that I take this obligation freely,
17 without any mental reservation or purpose of evasion, and that
18 I will well and faithfully discharge the duties of the office
19 of which I am about to enter, so help me God."
10:42 20 Sir, is that the oath that you took?
21 A. Yes, it is.
22 Q. Are you familiar with this book or an earlier edition of
23 it, sir?
24 A. I know we all have them in our chambers. I don't know that
10:42 25 I can tell you I've read every page of it.

10:42 1 Q. Okay. Let's go through a few provisions.
2 MR. FINDER: Can your Honors see that?
3 CHIEF JUDGE JONES: Barely.
4 MR. FINDER: Let me --
10:42 5 JUDGE LAKE: It's all right. No, that's better.
6 MR. FINDER: It's a little temperamental.
7 THE WITNESS: Oh, now that's much better.
8 MR. FINDER:
9 BY MR. FINDER:
10:42 10 Q. Okay. Your Honor, would you agree or disagree with these
11 statements, "New judges should review the ethical guidelines
12 set forth in the Code of Conduct for United States Judges and
13 the financial disclosure requirements of the Ethics Reform Act
14 of 1989"?
10:43 15 A. It says that.
16 Q. Do you agree with that?
17 A. Yes.
18 Q. Do you agree that once judges are assigned cases they have
19 a continuing obligation to examine periodically their own
10:43 20 personal and fiduciary financial interests and those of their
21 spouses and minor children?
22 A. I agree that's quoting what's in the paragraph.
23 Q. I know it's in there, but do you agree with what it says?
24 A. Yeah.
10:43 25 Q. Do you agree that, as a general matter, although judges are

10:43 1 not required to sever all ties to former clients and
2 colleagues, they clearly must be vigilant if they continue such
3 relationships?
4 A. I agree with that.

10:43 5 Q. Do you agree, under Canon 3 of the code of conduct, which
6 addresses a judge's obligation to perform the duties of the
7 judicial office impartially and diligently, requires judges to
8 disqualify themselves in any proceeding in which their
9 impartiality might be reasonably questioned?

10:44 10 A. I agree with that.

11 Q. Do you agree with Canon 3C of the code of conduct, that it
12 addresses the general issue of disqualification and states that
13 judges must disqualify themselves from all cases in which their
14 impartiality might be reasonably questioned?

10:44 15 A. I agree.

16 Q. And, Judge Porteous, do you agree that all new judges
17 should be mindful that they continue to be the subject of
18 public attention in their activities after their appointment to
19 the bench, thus, they should consider carefully whether
20 participation in outside activities impinges upon their
21 performance of their judicial responsibilities; as noted in
22 commentary to Canon 2A of the Code of Conduct for US Judges,
23 that judges must accept freely and willingly restrictions on
24 their personal conduct and activities that might be viewed as
10:44 25 burdensome by the ordinary citizen?

10:44 1 A. I agree.

2 Q. Sir, I'm going to show you what's Exhibit 18, which has

3 been offered and accepted, the Code of Conduct for United

4 States Judges, which I believe you said you're familiar with,

10:45 5 correct?

6 A. Yes.

7 JUDGE BENAVIDES: Speak up.

8 MR. FINDER: I'm sorry. Did I do it again?

9 BY MR. FINDER:

10:46 10 Q. The question was you are familiar with Exhibit 18, which is

11 the Code of Conduct for US Judges. Correct?

12 A. Yes, sir.

13 Q. And this code applies to district judges, correct?

14 A. Right.

10:46 15 Q. And the judicial conference has authorized the Committee on

16 the code of conduct to render advisory opinions concerning the

17 application and interpretation of the code when requested by a

18 judge to whom the code applies.

19 Have you ever asked that Committee for an

10:46 20 advisory opinion?

21 A. No.

22 Q. Are you familiar with Canon 1, your Honor, that a judge

23 should uphold the integrity and independence of the judiciary?

24 A. Yes.

10:46 25 Q. And that an independent and honorable judiciary is

10:46 1 indispensable to justice in our society?
2 A. Yes.
3 Q. There's a commentary here, your Honor, "Deference to the
4 judges and rulings of courts depends upon public confidence and
10:46 5 the integrity and independence of judges."
6 Skipping a line, "Although judges should be
7 independent, they should comply with the law, as well as the
8 provisions of this code."
9 Do you have any dispute with that statement --
10:47 10 those statements?
11 A. No, sir.
12 Q. Canon 2, "A judge should avoid the appearance of
13 impropriety."
14 MR. FINDER: Can you try and make this -- can you all
10:47 15 see?
16 BY MR. FINDER:
17 Q. "A judge should respect and comply with the law and should
18 act at all times in a manner that promotes public confidence in
19 the integrity and impartiality of the judiciary." Do you agree
10:47 20 with that statement, sir?
21 A. Yes, sir.
22 Q. Canon 2A, which you can read, was fairly summarized in the
23 book we just talked about. Do you agree with that, about
24 accepting -- that judges must accept certain restrictions in
10:47 25 their personal lives once they take the bench?

10:48 1 A. It seems to say that, yes.

2 JUDGE LAKE: Sir, I didn't hear your answer.

3 THE WITNESS: It seems to say that.

4 I'm sorry, Judge Lake.

10:48 5 JUDGE LAKE: Thank you.

6 BY MR. FINDER:

7 Q. And, then, in Canon 2A, a commentary, "Actual improprieties

8 under this standard include violations of law, court rules, or

9 other specific provisions of this code."Do you agree with that?

10:48 10 A. Yes, sir.

11 Q. Canon 3 says, "A judge should perform the duties of the

12 office impartially and diligently."

13 Can you follow along with me to read this?

14 "The judicial duties of a judge takes precedence

10:48 15 over all other activities. In performing the duties prescribed

16 by law, the judge should adhere to the following standards."

17 And, then, let's move over to Section C, under

18 Disqualification. "A judge shall -- shall disqualify himself

19 or herself in a proceeding in which the judge's impartiality

10:49 20 might reasonably be questioned."

21 A. Right.

22 Q. Okay. And then D, Remittal of Disqualification, "A judge

23 disqualified by the terms of 3C(1) may, instead of withdrawing

24 from the proceeding, disclose on the record the basis of

10:49 25 disqualification. If the parties and their lawyers, after such

10:49 1 disclosure and an opportunity to confer outside of the presence
2 of the judge, all agree, in writing or on the record, that the
3 judge should not be disqualified and the judge then is willing
4 to participate, the judge may participate in the proceeding.

10:49 5 This agreement shall be incorporated in the record of the
6 proceeding."

7 Did I read that accurately?

8 A. Yes.

9 Q. Were you familiar with this prior to the reading of this?

10:49 10 A. Yes.

11 Q. Okay. Canon 5, "A judge should regulate extra-judicial
12 activities to minimize the risk of conflict with judicial
13 duties."

14 Section C, A judge should -- under Financial
10:50 15 Activities, "A judge should refrain from financial and business
16 dealings that tend to reflect adversely on the judge's
17 impartiality, interfere with the proper performance of judicial
18 duties, exploit the judicial position, or involve the judge in
19 frequent transactions with lawyers or other persons likely to
10:50 20 come before the court on which the judge serves."

21 Were you aware of this provision before reading
22 it today?

23 A. Yes, sir.

24 Q. Is that a "yes," sir?

10:50 25 A. Yes, sir. I'm sorry.

10:50 1 Q. Okay. "A judge should not solicit or accept anything of
2 value from anyone seeking official action from or doing
3 business with the court or other entity served by the judge or
4 from anyone whose interests may be substantially affected by
10:51 5 the performance or nonperformance of official duties."Did I
6 read that accurately?

7 A. You did.

8 Q. "Except that a judge may accept a gift as permitted by the
9 Judicial Conference gift regulations. A judge should endeavor
10:51 10 to prevent a member of the judge's family residing in the
11 household from soliciting or accepting a gift except to the
12 extent that a judge would be permitted to do so by the Judicial
13 Conference gift regulations."

14 Did I read that accurately?

10:51 15 A. You did.

16 Q. And were you aware of this provision before reading it in
17 court today?

18 A. In general, yes.

19 Q. And for purposes -- under (5), "For purposes of this
10:51 20 section, 'members of the judge's family residing in the judge's
21 household' means any relative of a judge by blood or marriage
22 or person treated by a judge as a member of the judge's family,
23 who resides in the judge's household."

24 Did I read that correctly?

10:52 25 A. Yes, sir.

10:52 1 Q. And Number 6, "A judge should report" --
2 A. I can't see that.
3 Q. Oh, I'm sorry. Can you read that?
4 A. Yes.
10:52 5 Q. "A judge should report the value of any gift, bequest,
6 favor, or loan as required by the statutes or by the Judicial
7 Conference of the United States."
8 Did I read that correctly?
9 A. You absolutely did.
10:52 10 Q. And were you aware of that provision before?
11 A. Yes, sir.
12 Q. Under commentary to Rule 5, Canon -- it says, "Canon 5C.
13 Canon 3 requires a judge to disqualify in any proceeding in
14 which the judge has a financial interest, however small;
10:52 15 Canon 5 requires a judge to refrain from engaging in business
16 and from financial activities that might interfere with the
17 impartial performance of the judge's judicial duties; Canon 6
18 requires a judge to report all compensation received for
19 activities outside the judicial office."
10:52 20 Did I read that accurately?
21 A. You did.
22 Q. And were you aware of that prior to today?
23 A. I'm sure I was. I'm sure I was. I'm sorry.
24 Q. Canon 6, "A judge should regularly file reports of
10:53 25 compensation received for law-related and extra-judicial

10:53 1 activities."

2 Section C, "Public Reports, A judge should make
3 required financial disclosures in compliance with applicable
4 statutes and Judicial Conference regulations and directives."

10:53 5 Did I read that accurately, sir?

6 A. You did.

7 Q. And you were aware of that prior to today, correct?

8 A. Yes, sir.

9 Q. And, in fact, you have filed reports with the
10:53 10 Administrative Office of the United States courts, haven't you?

11 A. I have.

12 Q. Now, these canons of ethics for judges, that I read to you,
13 that you said you are familiar with, were not unlike the canons
14 of ethics that you were bound by as a state district judge in
10:54 15 Louisiana, correct?

16 A. I believe that's correct.

17 JUDGE BENAVIDES: Counsel, can I interrupt you just
18 for a little while --

19 MR. FINDER: Yes, sir.

10:54 20 JUDGE BENAVIDES: -- and question Judge Porteous?

21 It struck me that we discussed immunity, and it
22 struck me that Judge Porteous was advised that he would be
23 granted immunity. And it struck me that this is going on, I
24 think, in the belief that, but for that, he would not be
10:54 25 testifying. But we have not, in the record, actually presented

10:54 1 his testimony with the understanding -- with the explicit
2 understanding that immunity has been extended. And I don't
3 want to get down the road where we don't have that in the
4 record. But out of fairness, it would seem that is the reason
10:54 5 that Judge Porteous is testifying.

6 So, for the record, you are proceeding with the
7 request and asking for immunity for Judge Porteous?

8 MR. FINDER: You're absolutely correct, your Honor. I
9 do have the actual original application for compulsion as well
10:55 10 as the order of compulsion. Judge Porteous has a true and
11 accurate copy, but I'm happy to give him the originals.

12 THE WITNESS: I've seen it, if it's the same one you
13 gave me a copy of.

14 JUDGE BENAVIDES: I just want to get that straight
10:55 15 because there is some formality usually associated with taking
16 the Fifth Amendment.

17 MR. FINDER: Right. Right.

18 JUDGE BENAVIDES: But we've been going a long time on
19 that basis, and I didn't want to have any misunderstanding.

10:55 20 MR. FINDER: As long as you bring it up, your Honor, I
21 do need, without -- hopefully, without sounding didactic, I do
22 need to make certain that the witness knows that, while this is
23 a grant of use immunity coextensive with his Fifth Amendment
24 rights, it would not prevent him any kind of immunity from
10:55 25 false statement or perjury, just as in any case under 6001 and

10:55 1 6002 of the United States Code.
2 JUDGE BENAVIDES: All right.
3 CHIEF JUDGE JONES: And you're aware of that, Judge
4 Porteous?
10:56 5 THE WITNESS: Yes, ma'am.
6 MR. FINDER: May I proceed, your Honors?
7 CHIEF JUDGE JONES: Yes, sir.
8 MR. FINDER: What exhibit number is the Louisiana Code
9 of Judicial Conduct? 86?
10:56 10 THE WITNESS: Can I just get a cup of water real
11 quick?
12 CHIEF JUDGE JONES: Sure.
13 JUDGE BENAVIDES: Yes, Judge, you can bring the
14 pitcher with you.
10:56 15 THE WITNESS: Oh, thank you. I don't want to knock
16 something over.
17 MR. FINDER: I may have misspoke. It's Exhibit 85.
18 Forgive me.
19 THE WITNESS: The list, other than this morning, that
10:57 20 I was provided, only went to Exhibit 84 as of Friday.
21 MR. WOODS: Right, and I gave you the updated list
22 this morning.
23 THE WITNESS: Well, it's in the box somewhere.
24 MR. WOODS: No. It's on top of the box.
10:57 25 THE WITNESS: Maybe it is.

10:57 1 Okay. All right.

2 BY MR. FINDER:

3 Q. Mr. Porteous, I'm calling your attention to the Louisiana
4 Code of Judicial Conduct, Canon 1. I believe you testified
10:57 5 you're familiar with these.

6 It states, "The Judge shall uphold the integrity
7 and independence of the judiciary. An independent and
8 honorable judiciary is indispensable to justice in our
9 society."

10:57 10 And without taking up all the Court's time, I
11 believe you -- will you agree with me that this language is
12 almost verbatim of the language we just read from the canons of
13 federal judicial --

14 A. It seems to be. Certainly similar.

10:58 15 Q. Very similar.

16 Secondly, Canon 2, "A judge shall avoid
17 impropriety and the appearance of impropriety in all
18 activities."

19 And I believe that language is also very similar
10:58 20 to what we just read, correct?

21 A. Yes.

22 Q. Canon 3, "A judge shall perform the duties of office
23 impartially and diligently."

24 And, then, moving on to page -- to Section C of
10:58 25 that rule, which in the Louisiana version is titled

10:58 1 "Recusation, To Recuse."

2 It states, "A judge shall disqualify himself or
3 herself in a proceeding to which the judge's impartiality might
4 reasonably be questioned and shall disqualify himself or
10:58 5 herself in a proceeding in which disqualification is required
6 by law or applicable Supreme Court rule."

7 Did I read that accurately?

8 A. You did.

9 Q. And you are -- and these were the rules that you were bound
10:58 10 by as a judge in Louisiana, correct?

11 A. I believe that's correct.

12 Q. Canon 5, titled Extra-Judicial Activities, Section C, "A
13 judge shall refrain from financial and business dealings that
14 tend to reflect adversely on the judge's impartiality, interfere
10:59 15 with the proper performance of judicial duties, exploit the
16 judge's judicial position, or involve the judge in frequent
17 transactions with lawyers or persons likely to come before the
18 court on which he or she serves."

19 Did I read that accurately?

10:59 20 A. You did.

21 Q. That's also similar to the canons of federal ethics, isn't
22 it?

23 A. It is.

24 Q. Canon 6, "A judge shall not accept compensation or gifts
11:00 25 for quasi-judicial and extra-judicial activities, only under

11:00 1 restricted circumstances."
2 Section C, "Gifts. A judge, a judge's spouse, or
3 member of the judge's immediate family residing in the judge's
4 household shall not accept any gifts or favors which might
11:00 5 reasonably appear as designed to affect the judgment of the
6 judge or influence the judge's official conduct."
7 Did I read that accurately?
8 A. You did.
9 Q. And then there's also the Louisiana version of annual
11:00 10 financial reporting, correct?
11 A. Yes.
12 Q. Okay. And I believe the amount was raised effective 2006.
13 But even when you were a judge, it was a lower amount, correct?
14 A. I believe that's correct.
11:00 15 Q. The point is, Judge Porteous, in the more than two decades
16 that you have been a judge, whether state or federal, you have
17 been bound by very, very similar terms of judicial ethics
18 canons, correct?
19 A. Yes, somewhat, of course.
11:01 20 Q. Judge Porteous, you were married to Camella Porteous, who
21 passed away December 22nd, 2005, correct?
22 A. Yes, sir.
23 Q. How long were you married, approximately?
24 A. Got married in '69. Thirty-six years.
11:01 25 Q. Isn't it true, Judge Porteous, that on March 28th, 2001,

11:01 1 you and your wife filed a voluntary Chapter 13 bankruptcy
2 petition in this district, the Eastern District of Louisiana,
3 in Docket Number 01-12363?

4 A. I know we filed, and I'm assuming that is the date number
11:01 5 and the record number.

6 Q. I'll show you the actual petition.

7 A. That's okay. I mean --

8 Q. And is it also true that the trustee assigned to the file
9 was SJ Beaulieu -- spelled B-E-A-U-L-I-E-U -- Jr.?

11:02 10 A. Correct.

11 Q. And your lawyer at the time was Claude C. Lightfoot --
12 spelled L-I-G-H-T-F-O-O-T -- Jr. Is that correct?

13 A. Correct.

14 Q. And you filed -- I'll show you what's part of Exhibit 1,
11:02 15 Bates Number SC122.

16 A. What's the Bates number? I'm sorry.

17 Q. SC12 -- 00122. One of these days I'll get the hang of
18 this.

19 A. That's fine.

11:02 20 Q. This is a voluntary petition that you filed. Isn't that
21 correct, Judge?

22 And please look it over.

23 A. It appears to be.

24 Q. Okay. Under "Name of Debtor," it says "Ortous" -- spelled
11:03 25 O-R-T-O-U-S -- comma, G, period, T, period, correct?

11:03 1 A. It does.
2 Q. And under "Name of Joint Debtor, Spouse," it's "Ortous" --
3 O-R-T-O-U-S -- comma, capital C, period, capital A, period,
4 correct?
11:03 5 A. That's correct.
6 Q. It has as the street address of the debtor PO Box 1723 in
7 Harvey, Louisiana, ZIP Code 70059-1723, correct?
8 A. Yes, sir.
9 Q. And the case number, the docket number, 01-12363, which I
11:03 10 believe I mentioned a few moments ago, correct?
11 A. I believe you did.
12 Q. Let me show you, Judge Porteous -- I'll come back to that.
13 Do you recognize this as an application for a
14 PO box, Judge Porteous?
11:04 15 It's SC exhibit -- Special Committee Exhibit 23,
16 Bates Number SC00599.
17 Do you recognize that, sir?
18 A. Yeah. If you tell me that's what it is, I agree. I
19 mean --
11:04 20 Q. Well, but I can't testify; so, I have to ask you those
21 questions.
22 A. I'm assuming it is an application for a post office box. I
23 can't read the print, but I have no reason to doubt what you
24 represent. I'm not trying to take issue. I agree.
11:04 25 Q. I know. I'm trying to be fair.

11:04 1 There's a signature here. Do you recognize that
2 signature?
3 A. That's mine.
4 Q. That is your signature.
11:04 5 And it's dated March 20th, 2001, correct?
6 A. It is.
7 Q. Now, March 20th, 2001, was -- and we'll get to this in a
8 moment -- just about a week before you filed your Chapter 13,
9 correct?
11:05 10 A. What was the date?
11 Yeah. I agree. I mean --
12 Q. All right. And on your PO box request, you have an address
13 here, 4801 --
14 A. "Neyrey."
11:05 15 Q. -- Neyrey -- N-E-Y-R-E-Y -- Drive in Metairie, Louisiana.
16 That's your residence, correct?
17 A. That's correct.
18 Q. So, going back to Exhibit 1, the voluntary petition -- oh,
19 wrong one -- the PO box that you have on here, you put in lieu
11:05 20 of your home address, correct?
21 A. That's correct.
22 Q. Now, this voluntary petition --
23 MR. WOODS: Larry, it's off.
24 MR. FINDER: Oh, thank you.
11:06 25 Can your Honors read that?

11:06 1 BY MR. FINDER:
2 Q. "Signature of debtor, individual" -- tell me if I'm reading
3 this accurately -- "I declare under penalty of perjury that the
4 information provided in this petition is true and correct."
11:06 5 And there are two signatures with the date 3-28-01, correct?
6 A. That's correct.
7 Q. And 3-28-01 was about eight days after the PO box was taken
8 out, correct?
9 A. That's correct.
11:06 10 Q. Your name is not Ortous, is it?
11 A. No, sir.
12 Q. Your wife's name is not Ortous?
13 A. No, sir.
14 Q. So, those statements that were signed -- so, this petition
11:06 15 that was signed under penalty of perjury had false information,
16 correct?
17 A. Yes, sir, it appears to.
18 Q. I'll show you something else on this petition, Judge
19 Porteous. There's a list of unsecured creditors, and I'm
11:07 20 referring now to Bates Number Page SC00126.
21 A. All right.
22 Q. Regions Bank?
23 A. Yes, sir.
24 Q. That's a bank you've done business with?
11:07 25 A. Yeah, I did some business with them.

17:07 1 Q. Right. And Regions Bank is on this voluntary petition,
2 correct?
3 A. I assume that's the petition, yes, sir. I mean --
4 Q. Well, we'll go back to the first page.
11:07 5 A. Okay.
6 Q. Voluntary petition?
7 A. All right. Yeah, it's on there.
8 Q. But if Regions Bank or any other unsecured creditor such as
9 these were to get word that a GT Ortous had filed bankruptcy,
11:08 10 they wouldn't necessarily know it was you, would they, unless
11 they ran the Social Security number?
12 A. If they had have got notice, you're correct.
13 Q. Now, let's jump ahead a little bit. Still in Exhibit 1 --
14 A. All right.
11:08 15 Q. -- and I'm going to refer you and the Court to Bates
16 Number SC120. This is an amended voluntary petition, is it
17 not?
18 A. Yes, sir.
19 Q. This time the name of the debtor is Gabriel T. Porteous,
11:08 20 Jr. That's you, correct?
21 A. Yes, sir.
22 Q. And Carmella A. Porteous, the joint debtor, your wife,
23 correct, sir?
24 A. Yes, sir.
11:08 25 Q. This time the address is 4801 Neyrey Drive, Metairie,

11:08 1 Louisiana, correct?
2 A. Yes, sir.
3 Q. This petition -- blow this up a little bit; that's about as
4 clear as I can make it -- was signed by you and your wife on
11:09 5 April 9th. Those are your signatures, correct?
6 A. Yes, sir.
7 Q. And the date is April 9th, correct?
8 A. Yes, sir.
9 Q. And your attorney's name, Claude Lightfoot, is on there,
11:09 10 also?
11 A. Right.
12 Q. So, between -- strike that.
13 After your voluntary -- your amended petition was
14 filed, there was an order of recusal entered in your bankruptcy
11:09 15 case, in the matter of Gabriel T. Porteous, Jr. and Carmella A.
16 Porteous, an order of recusal -- I'm going to have to -- and
17 the order, which was dated June 1st, 2001, says it is ordered
18 that the three judges of the US Bankruptcy Court for the
19 Eastern District of Louisiana, naming the three judges, are
11:10 20 hereby recused from the case, correct?
21 A. Yes, sir.
22 Q. And then procedurally, your case was temporarily assigned
23 to Judge William R. Greendyke on assignment to the Eastern
24 District of Louisiana, correct?
11:10 25 A. Right.

11:10 1 Q. And that's the same cause number?
2 A. Yes, sir.
3 Q. Signed by then Chief Judge Carolyn Dineen King of the Fifth
4 Circuit, correct?
11:10 5 A. Right.
6 Q. I don't believe I stated the date. Judge Greendyke was
7 assigned to this -- at least the order of Judge King assigns
8 Judge Greendyke June 4th, 2001. Is that accurate?
9 A. Yes, sir.
11:11 10 Q. Judge Porteous, we've already talked about Claude Lightfoot
11 being your attorney.
12 Jacob J. Amato, do you know Jacob Amato, Jake
13 Amato?
14 A. Absolutely.
11:11 15 Q. He is a lawyer, correct?
16 A. Yes, sir.
17 Q. And he is a friend of yours. Isn't that correct?
18 A. Yes, sir.
19 Q. Warren A. Forstall, Jr., also known as Chip?
11:11 20 A. Yes, sir.
21 Q. He is a lawyer?
22 A. Yes, sir.
23 Q. And he is your friend, correct?
24 A. Yes, sir.
11:11 25 Q. Robert G. Creely, again, a lawyer and a friend of yours?

11:11 1 A. Yes, sir.
2 Q. Don C. Gardner, a lawyer and a friend of yours?
3 A. Yes, sir.
4 Q. Leonard L. -- also known as Lenny -- Levenson, your friend
11:11 5 and an attorney, right?
6 A. Yes, sir.
7 Q. Joseph Mole, an attorney?
8 A. Yes, sir.
9 Q. Not one of your close friends?
11:12 10 A. We've never gone anywhere together. That would be a
11 correct statement.
12 Q. And Rhonda Danos has been your -- D-A-N-O-S -- has been
13 your secretary and assistant for more than 20 years now,
14 correct?
11:12 15 A. Since I was on the state bench. Twenty-three years.
16 Q. Twenty-three years.
17 Okay. Judge Porteous, before you filed your
18 voluntary petition for bankruptcy in March of 2001, let's go
19 back to the year -- calendar year 2000.
11:13 20 A. All right.
21 Q. You had engaged Mr. Lightfoot as your counsel in the latter
22 part of 2000, correct?
23 A. I knew it was in 2000. I don't remember the exact date;
24 but if that's what you say, I'm sure it is.
11:13 25 Q. Well, I will refresh your recollection.

17:13 1 But would you agree with me that at least by
2 November, December of 2000 he was your lawyer?
3 A. I believe that's correct, yeah.
4 Q. Now, after bankruptcy, you had a meeting with the trustee,
11:13 5 SJ Beaulieu, correct?
6 A. After what?
7 Q. After bankruptcy was filed.
8 A. After it was filed, that's correct.
9 Q. And you recall that Mr. Beaulieu handed you a pamphlet
11:13 10 called "Your Rights and Responsibilities in Chapter 13," which
11 we have marked as the Committee's Exhibit 11?
12 A. I believe that's -- yeah, right.
13 Q. And it bears the name of Mr. Beaulieu and has his local
14 New Orleans phone number?
11:14 15 A. Yes, sir.
16 Q. That is on Bates Page 399.
17 I'm sorry. I have my back to you.
18 A. All right.
19 Q. Calling your attention to this exhibit, there are
11:14 20 enumerated paragraphs. Paragraph 6, follow me while I read.
21 "Credit While in Chapter 13. You may not borrow money or buy
22 anything on credit while in Chapter 13 without permission from
23 the bankruptcy court. This includes the use of credit cards or
24 charge accounts of any kind."
11:14 25 Did I read that accurately, sir?

11:14 1 A. You did.
2 Q. And do you recall reading that and discussing that with
3 Mr. Beaulieu?
4 A. I don't specifically recall it, but I'm not saying it
11:14 5 didn't happen.
6 Q. All right. Do you recall, on or about May 9th, 2001,
7 having a -- what's called a 341 bankruptcy hearing, where
8 Mr. Beaulieu as trustee was present; your attorney,
9 Mr. Lightfoot, was present; and you were present?
11:15 10 A. Yes, sir, I remember meeting with Mr. Beaulieu.
11 Q. And that meeting was recorded, if you -- do you recall
12 that?
13 A. I believe that's correct, yeah, tape recorded.
14 Q. Right.
11:15 15 Do you recall Mr. Beaulieu stating the following?
16 "Any charge cards that you may -- you have you cannot use any
17 longer. So, basically, you're on a cash basis now.
18 "I have no further questions except have you made
19 your first payments."
11:15 20 Did I read that accurately?
21 A. Yes, sir.
22 Q. So, you were told by Mr. Beaulieu that you couldn't incur
23 any more credit there, on credit cards, correct?
24 A. I'm not sure it was there, but I'm sure it was part of the
11:16 25 explanation at some point.

11:16 1 Q. Well, going back to --
2 A. When you ask -- I only meant in reference to the statement.
3 Yes, it's --
4 Q. Right.
11:16 5 A. -- contained in there, and I knew that.
6 Q. And it was your understanding -- and that's what I'm trying
7 to find out, sir -- that you couldn't incur more credit while
8 in bankruptcy, correct?
9 A. That's correct.
11:16 10 Q. Okay. Now, on June 2nd, are you familiar with the order
11 signed by Bankruptcy Judge Greendyke?
12 And this is from Exhibit 1, Bates Number SC50,
13 Exhibit 1 being the certified copy of the bankruptcy file.
14 "It is ordered that," going down to Number 4,
11:16 15 "the debtors shall not incur additional debt during the term of
16 this plan except upon written approval of the trustee."
17 Did I read that correctly?
18 A. You did.
19 Q. Was that your understanding at the time?
11:17 20 A. In the order, it was.
21 JUDGE LAKE: What's the date of that document?
22 MR. FINDER: July 2nd, 2001, was the docket date. It
23 was signed by Judge Greendyke June 28th, 2001.
24 JUDGE LAKE: Thank you.
11:17 25 BY MR. FINDER:

11:18 1 Q. Judge Porteous, we talked a little bit about the Ethics in
2 Government Act earlier, the Ethics in Government Act of 1978,
3 which has to do with your judicial filings. Under Title 5,
4 United States Code Appendix Section 101, et seq., "Judicial
11:18 5 officers" -- and tell me if you agree with this -- "Judicial
6 officers shall include a full and complete statement with
7 respect to the source, type, and amount or value of income from
8 any source, other than the current employment by the United
9 States, received during the preceding calendar year aggregating
11:18 10 \$200 or more in value."

11 Is that your understanding, sir?

12 A. Right.

13 Q. And the law goes on to state that it must be reported --
14 "the identity of the source, a brief description, and the value
11:18 15 of all gifts aggregating more than \$250, received from any
16 source other than a relative of the reporting individual during
17 the preceding calendar year."

18 A. Yes, sir.

19 JUDGE BENAVIDES: For what year is that?

11:19 20 MR. FINDER: This is just from the statute, your
21 Honor.

22 JUDGE BENAVIDES: All right. I think those gift
23 amounts vary from year to year.

24 MR. FINDER: Actually, they were lower; and these are
11:19 25 the current amounts.

17:19 1 BY MR. FINDER:
2 Q. So, what -- the amounts I just read to you apply to today.
3 When you first took the bench, presumably they were slightly
4 lower?
11:19 5 A. Presumably, yes.
6 Q. Okay. And these have to do with income and gifts?
7 A. Right.
8 Q. As I just read?
9 A. Yes, sir.
11:20 10 Q. Judge Porteous, you're familiar with the term "marker,"
11 aren't you?
12 A. Yes, sir.
13 Q. Would it be fair to state that, "A marker is a form of
14 credit extended by a gambling establishment, such as a casino,
11:20 15 that enables the customer to borrow money from the casino. The
16 marker acts as the customer's check or draft to be drawn upon
17 the customer's account at a financial institution. Should the
18 customer not repay his or her debt to the casino, the marker
19 authorizes the casino to present it to the financial
11:20 20 institution or bank for negotiation and draw upon the
21 customer's bank account any unpaid balance after a fixed period
22 of time." Is that accurate?
23 A. I believe that's correct and probably was contained in the
24 complaint or -- or the second complaint. There's a definition
11:20 25 contained.

11:20 1 Q. And you have no quarrel with the definition?
2 A. No, sir.
3 Q. Okay. Judge Porteous, if markers are a form of borrowing
4 or an extension of credit, by definition, would you agree that
11:21 5 from approximately August 20th to 21st, a two day period in
6 2001, you borrowed approximately \$8,000 from Treasure Chest
7 Casino in Kenner, Louisiana, by taking out approximately eight
8 1,000-dollar markers over a two day period?
9 A. Well, did I sign \$8,000 worth of markers? You have records
11:21 10 that suggest I did that. I agree with you.
11 Q. Okay.
12 A. The issue is that we haven't -- I have an issue with
13 whether that's credit. The statement itself says it acts like
14 a check against your account. Now, I did not have an
11:21 15 8,000-dollar line of credit at -- where was that? Treasure
16 Chest?
17 Q. Treasure Chest. I didn't ask you about a line of credit,
18 though.
19 A. I understand, but I'm explaining to you why that's
11:21 20 misrepresentative.
21 Q. Okay. Well --
22 A. Those are just repetitive 1,000 -- had I written a check
23 for a thousand, I do not believe I would have been in violation
24 of any court order.
11:22 25 JUDGE BENAVIDES: But you're saying that you didn't

11:22 1 not -- for instance, you could not sign a marker for \$8,000
2 because that was above your limit but that would not have
3 precluded you from making out eight different markers for
4 \$1,000 during a two day period?

11:22 5 THE WITNESS: Only if that line -- only if I had the
6 funds for the line of credit. In other words, I may have
7 signed a thousand dollar marker, played a little while, won,
8 paid it back. That's what it sounds like to me.

9 I have no specific recollection of that, Judge.
11:22 10 But that's what I'm saying, yes, sir.

11 JUDGE BENAVIDES: So, you're not disputing that there
12 may have been eight markers for \$1,000. What you're saying is
13 that at any one time you dispute that you owed \$8,000.

14 THE WITNESS: That's correct, your Honor. I couldn't
11:22 15 get it. I mean --

16 JUDGE BENAVIDES: I understand what you mean.

17 BY MR. FINDER:

18 Q. Judge Porteous, I'm going to show you what's from
19 Exhibit 54, Bates Number SCL436. These are records from the
11:23 20 Treasure Chest Casino in Kenner, Louisiana. And we'll have
21 more testimony about this later through Agent Horner.

22 But just by way of illustration, you see where it
23 has "MRK," "marker"?

24 A. Right.

11:23 25 Q. And it shows various 1,000-dollar markers?

TT:23 1 A. Uh-huh.
2 Q. And remember, these were taken out August 20 and 21, the
3 dates --
4 A. Well, that's not those dates.
11:23 5 Q. That's the wrong page. Here we go.
6 JUDGE LAKE: What exhibit is that?
7 MR. FINDER: It's SC1438. I had the wrong page.
8 MR. WOODS: Exhibit 54.
9 MR. FINDER: Exhibit 54.
11:23 10 BY MR. FINDER:
11 Q. August 21st, '01, you were in Chapter 13 bankruptcy,
12 correct?
13 A. Yes, sir.
14 Q. Let's look at this entry. "MK" for "marker"?
11:23 15 A. Uh-huh.
16 Q. Taken out August 21 in the amount of a thousand dollars?
17 A. Uh-huh.
18 Q. Paid back September 9th, correct?
19 A. If that's what it says, yeah.
11:24 20 Q. That's what it says.
21 Next entry highlighted, marker, 8-21-01,
22 apparently paid back right way?
23 A. Right.
24 Q. Next marker, also -- also for a thousand dollars, not paid
11:24 25 back till September 9th?

11:24 1 A. All right.
2 Q. Next marker, August 21, a thousand dollars, not paid back
3 till September 15, correct?
4 A. It looks like that, yeah. Yeah.
11:24 5 Q. This is --
6 A. Yes. I got it.
7 Q. I don't think it's going to --
8 JUDGE LAKE: So, the net effect of this was that
9 \$3,000 of the 8,000 was paid back at a later date. Is that
11:24 10 what the document shows?
11 MR. FINDER: Yes, sir.
12 JUDGE LAKE: Approximately within a month of that?
13 MR. FINDER: That's correct. It wasn't just taking
14 out a marker and paying it back within hours or the same day.
11:25 15 JUDGE LAKE: So, 5,000 was paid back; 3,000 was
16 some -- some form of extension of credit?
17 MR. FINDER: That's correct, that's what this record
18 tends to show.
19 JUDGE BENAVIDES: So, let's say on March 21st at the
11:25 20 end of the day there would have been outstanding balance on the
21 markers --
22 MR. FINDER: That's correct.
23 JUDGE BENAVIDES: -- for a debt exceeding the \$1,000?
24 MR. FINDER: Yes, sir.
11:25 25 JUDGE BENAVIDES: And you could actually figure this

11:25 1 out on a daily basis?

2 MR. FINDER: Yes, sir. And we'll get into greater
3 detail on that later but this is an introduction to it and that
4 is correct.

11:25 5 BY MR. FINDER:

6 Q. We could do the same exercise for all of them for -- that
7 are listed in the charge. For example, on October 13th, 2001,
8 you borrowed approximately a thousand dollars Treasure Chest in
9 the form of two 500-dollar markers.

11:26 10 Yeah, here it is.

11 MR. FINDER: That's the best I can do. I hope you can
12 read it.

13 BY MR. FINDER:

14 Q. And those apparently were paid back the same day, correct?

11:26 15 A. Yes, sir.

16 CHIEF JUDGE JONES: What page number is that?

17 MR. FINDER: This is Page 1437.

18 CHIEF JUDGE JONES: Okay.

19 BY MR. FINDER:

11:27 20 Q. But, then, on October 17th and 18th -- and I'm talking
21 about the same exhibit, Pages 1436 and '37 -- there were -- can
22 you read this, Judge Porteous?

23 A. If you'll stop moving it, I might be able to.

24 Q. I don't mean to get you dizzy.

11:27 25 A. Yeah. Two 500. Well, five --

17:27 1 Q. Okay. On October 17th and 18th, you borrowed in excess of
2 \$5900 from Treasure Chest, taking out approximately ten markers
3 of various denominations over the two days, 4400 of which was
4 paid back on November 9th. Do you recall that?

11:27 5 A. I don't recall it. I'm sorry.

6 That's what year?

7 Q. If that's what the records show, though, you don't dispute
8 it?

9 A. If that's what the record says, the record says it.

11:28 10 Q. Okay. We'll go into that with Agent Horner.

11 JUDGE LAKE: Do you have a summary exhibit which shows
12 what the -- the dates the items were paid? In other words,
13 there's a portion of this 5900 apparently was repaid the same
14 day and the balance was paid the next month?

11:28 15 MR. FINDER: We believe our FBI witnesses will be able
16 to summarize that. This was just an introduction to it.

17 MR. WOODS: To answer your question, we do not have a
18 specific chart summarizing that but we do have charts
19 summarizing gambling debt.

11:28 20 JUDGE BENAVIDES: But the records themselves reflect
21 the date of payment?

22 MR. WOODS: Yes, sir.

23 JUDGE BENAVIDES: So, whether we have a summary person
24 or not, we could figure those things out?

11:28 25 MR. FINDER: They're all --

11:28 1 MR. WOODS: The agent will tell us.
2 JUDGE LAKE: You might ask the agent to be attuned to
3 do that.
4 MR. FINDER: I think he's been so instructed.
11:29 5 BY MR. FINDER:
6 Q. We've talked about the filing of your bankruptcy, your
7 Honor, and not incurring new debt. That was in the pamphlet,
8 that was in the court order, and that was in the recorded
9 hearing. Do you remember those?
11:29 10 A. Yes, sir.
11 Q. Okay. Judge Porteous, on March 28th --
12 A. What year?
13 Q. 2001.
14 A. Okay.
11:29 15 Q. Following the filing of your Chapter 13 bankruptcy
16 petition, you and Mrs. Porteous did, in fact, incur additional
17 credit card debt on your Fleet Credit Card. Do you recall
18 that?
19 A. I do not recall that. I believe the exhibit says it's my
11:29 20 wife's card, but I don't remember that.
21 Q. Your wife was your co-debtor on the bankruptcy petition,
22 was she not?
23 A. She was.
24 Q. And the bankruptcy -- we'll get into this later; but the
11:29 25 bankruptcy schedule required all credit cards, everything, to

11:30 1 be scheduled, to be listed, correct?
2 A. Right.
3 And what date was that? March 28th, you said?
4 I'm sorry.
11:30 5 Q. March 28th, 2001 --
6 A. Yes.
7 Q. -- following the bankruptcy, the original petition,
8 correct?
9 A. Yes.
11:30 10 Q. All right. Now, as of March 5th -- and I'm referring to
11 Exhibit 21 -- okay. Showing you what's Exhibit 21, a statement
12 from Fleet Credit Card, Judge.
13 A. Right.
14 Q. You'll notice that it's Account Number [REDACTED],
11:30 15 correct?
16 A. Yes, sir.
17 Q. And from Fleet Credit Card Service for the account of
18 Carmella Porteous, right?
19 A. Right.
11:31 20 Q. Now, if you look at these dates under the account
21 transactions, you'll see from March 5th through March 19th,
22 correct?
23 A. I can't see it, but I'm satisfied it says that. I just
24 can't see --
11:31 25 Q. Well --

11:31 1 A. I'm not disputing it says that, counsel.
2 Q. All right. This is -- March 5th is right before the
3 bankruptcy, right?
4 A. Yes, sir.
11:31 5 Q. March 19th we're in the bankruptcy -- we're into the
6 bankruptcy period, correct?
7 A. Well, before the bankruptcy was filed; but you're right.
8 Q. March 28th. If you'll look at March 8th, you'll see that
9 this credit card in the amount of \$157.99 was used at Harrah's
11:31 10 Casino in New Orleans.
11 Well, maybe you can't see it; but I'll be happy
12 to show you.
13 A. No. I'm satisfied you're not misrepresenting it.
14 MR. WOODS: Your Honor, you have documents in the
11:32 15 boxes, that he's using, if you want to refer to them.
16 THE WITNESS: Well, I don't want to -- I have to stay
17 up here. I don't want to necessarily -- I mean, I'm not --
18 MR. WOODS: I could move them there if you want me to.
19 THE WITNESS: I don't dispute he's reading this
11:32 20 correctly. I jut -- he asked me could I see it, and I just
21 can't see it.
22 BY MR. FINDER:
23 Q. Now, again, bankruptcy was March 28th, the amended petition
24 was April 9th, correct?
11:32 25 A. Right.

11:32 1 Q. I'm going to show you now, Judge Porteous, from Exhibit 1
2 the Chapter 13 schedules and plan.
3 A. All right.
4 Q. This will be a little bigger and easier to read, hopefully.
11:32 5 This is in your case, with your docket number,
6 submitted by Claude Lightfoot, your attorney, correct?
7 A. Yes, sir.
8 Q. And I wish you did have it in front of you, and I'll show
9 you mine.
11:33 10 A. I'll pull it out if it's --
11 Q. But I would like you to tell me where Fleet Credit Card is
12 listed in here on the schedule of your credit cards.
13 A. Well, if it's not listed, it's not listed.
14 Q. So, you'll take my word it's not listed?
11:33 15 A. Yeah.
16 Q. Okay.
17 A. I don't know whether it was in existence, whether it was
18 paid off or not. I don't know anything about that. I mean, as
19 I'm sitting here, I don't recall.
11:33 20 Q. Well, whether it was paid off or not -- let's look at the
21 schedule -- I believe it's at Schedule F -- which lists
22 numerous credit cards --
23 A. All right.
24 Q. -- such as American Express at Surety Bank, Bank of
11:34 25 Louisiana MasterCard, Chase Platinum MasterCard, Citibank

11:34 1 Advantage, Citibank Advantage. The list goes on.
2 A. Right.
3 Q. This is in alphabetical order. Fleet does not appear,
4 correct?
11:34 5 A. Does not appear.
6 Q. And is it your testimony that if it was paid off it
7 wouldn't have to be on this list? If you had a zero balance on
8 the date this was filed, it wouldn't have to be on the list?
9 A. Well, it was not a -- if there was no debt, they weren't a
11:34 10 credit, to my understanding. It says "creditors' names." The
11 ones you -- as I understood, the instruction was that you owed
12 money to.
13 Q. Well, when you use a credit card, it's an extension of
14 credit, correct?
11:34 15 A. Correct.
16 Q. So, you pay it?
17 A. Right.
18 Q. So, if it's not on this list because it has a zero balance
19 and then you use it to go to JC Penney or the casino and you
11:34 20 rack up credit on it, that's incurring credit, incurring debt?
21 A. That's incurring additional credit, correct.
22 Q. Okay.
23 JUDGE LAKE: Was credit extended on that account after
24 the date of the bankruptcy filing?
11:35 25 MR. FINDER: I think the evidence -- they were

11:35 1 showing, Judge, that the card was not listed but was used as a
2 credit card after the date of the bankruptcy and the amended
3 petition of bankruptcy.

4 JUDGE BENAVIDES: So, it wasn't included in the list
11:35 5 of creditors while the card had been used before and -- before
6 the petition was filed and prior to the payment that was made
7 for the charge upon the card?

8 MR. FINDER: That's correct.

9 JUDGE BENAVIDES: So, you're contending there was a
11:35 10 transaction existing --

11 MR. FINDER: That's my next exhibit.

12 JUDGE LAKE: It was used -- I guess to follow up, and
13 it was used after the bankruptcy filing? Is that what you
14 said?

11:35 15 MR. FINDER: Yes, sir. That's my next exhibit.

16 JUDGE LAKE: All right. Sorry.

17 BY MR. FINDER:

18 Q. From Exhibit 21, also --

19 A. All right.

11:35 20 Q. -- Bates Page 592, again, same account number, Fleet Credit
21 Card, your wife's name?

22 A. Right.

23 Q. Now, it shows here purchases and cash advances, \$734.31,
24 correct?

11:36 25 A. Yes, sir.

11:36 1 Q. Do you see that?
2 Okay. And this credit card was used throughout
3 the month of May and June, correct?
4 You can see the entries on the left-hand side,
11:36 5 highlighted in the yellow, one of whom -- one entry which is in
6 red for the Treasure Chest, which is a casino, is it not?
7 A. Yes, sir.
8 Q. And that's \$174.99, correct?
9 A. That's what it says.
11:36 10 Q. So, if it's on this statement, that means there was an
11 extension of credit, correct?
12 A. That appears to be correct.
13 Q. Okay. Moving on to the next month's statement, also from
14 Exhibit 21, Bates Page 593, would you agree, Judge Porteous,
11:36 15 this is the same account, same account number?
16 A. (Nodding head.)
17 Q. Is that a "yes"?
18 A. Yeah.
19 Q. Okay. And from June 15th to July 18th -- and this is the
11:37 20 best copy we have. So, I know it's a little hard to read.
21 This card was used, including for Harrah's in New Orleans, for
22 \$91.99 and Treasure Chest for \$68.99. I'll be happy to show
23 you this.
24 A. No. I'm satisfied that's what you're reading.
11:37 25 Q. All right. Judge Porteous, are you aware that -- strike

11:38 1 that.

2 Let's go back to the Chapter 13 schedules and
3 plans, which, again, is from Exhibit 1, starting with Bates
4 Number 91.

11:38 5 Judge Porteous, would you agree that you did
6 conceal assets and income from the bankruptcy estate and from
7 your attorney by filing false and misleading schedules with the
8 bankruptcy court and signing them under penalty of perjury?

9 A. I would not agree with that.

11:39 10 Q. All right.

11 JUDGE BENAVIDES: Counsel, I hesitate to interrupt
12 you. And perhaps you will get into this at a later time; but
13 before we leave Fleet, your record evidence suggests that a
14 number of charges on Mrs. Porteous' card prior to and during
11:39 15 the time that the bankruptcy petition or case was on file --

16 MR. FINDER: Yes.

17 JUDGE BENAVIDES: -- with the bankruptcy judge. Do
18 you intend at a later time or not to present evidence with
19 respect to payments made with -- during that period of time and
11:39 20 when the payments were made and how the -- and who made those
21 payments?

22 MR. FINDER: We do intend to show evidence that the
23 card was paid off in full through a check by Rhonda Danos. But
24 I'm just not there yet, but I will get there.

11:40 25 JUDGE BENAVIDES: All right. So, you'll get to that

11:40 1 and who -- who authorized payments and things like that?
2 MR. FINDER: Yes, sir.
3 JUDGE BENAVIDES: The judge had mentioned something
4 about it was his wife's account, and I wanted to --
11:40 5 MR. FINDER: That's correct.
6 JUDGE BENAVIDES: All right.
7 BY MR. FINDER:
8 Q. All right. Judge Porteous, again, from the Exhibit 1,
9 starting with Bates Number 91 --
11:40 10 A. All right.
11 Q. -- the Chapter 13 schedule and plan, we've already talked
12 about?
13 A. Yes, sir.
14 Q. Okay. Let's go through this for a moment.
11:40 15 Under Schedule B, "Personal Property."
16 A. All right.
17 Q. "Type of property, checking, savings, or other financial
18 accounts, certificates of deposit, shares in banks, savings and
19 loan, thrift, building and loan, homestead association, or
11:41 20 credit unions, brokerage houses, or cooperatives." Did I read
21 that accurately?
22 A. Yes, sir.
23 Q. And you listed Bank One Checking Account [REDACTED]. Is
24 that correct?
11:41 25 A. That's correct.

11:41 1 Q. And the current value of that interest is \$100, correct?
2 A. Yes, sir.
3 Q. And that's on Page 95?
4 A. Bates Page 95.
11:41 5 Q. Bates Page 95. Bates Page 96, Schedule B, Question 17,
6 "Other liquidated debts -- other liquidated debts owing debtor,
7 including tax refunds, give particulars." And in the next box,
8 it's checked off "none," correct?
9 A. Yes, sir.
11:42 10 Q. Attached to this exhibit, starting on Bates Page 112, the
11 statement of financial affairs, are you familiar with that,
12 sir?
13 A. Yes, sir.
14 Q. And on the last page of that statement of financial
11:42 15 affairs, with Bates Number SC116?
16 A. Right.
17 Q. "I declare under penalty of perjury that I have read the
18 answers contained in the foregoing statement of financial
19 affairs and any attachments thereto and they are true and
11:42 20 correct," dated April 9th, '01, the date of the amended
21 petition, signed by you and your wife, correct?
22 A. Yes, sir.
23 Q. So, you would agree with me, Judge Porteous, this is a
24 document that had a jurat that required that it be signed --
11:43 25 well, that it be signed under penalty of perjury, correct?

11:43 1 A. Yes, sir. You just read that.

2 Q. Right. There was another one. This -- that had to do with

3 statement of financial affairs.

4 On Page 111, "Declaration concerning debtors'

11:43 5 schedules," just about the schedules. Now, "Declaration under

6 penalty of perjury by individual debtor," it states, "I declare

7 under penalty of perjury that I have read the foregoing summary

8 and schedules consisting of 16 sheets plus the line summary

9 page and that they are true and correct to the best of my

11:43 10 knowledge, information, and belief," dated April 9th, '01,

11 signed by you and your wife, correct?

12 A. Right.

13 Q. Isn't it true, Judge Porteous, that although you replied

14 "none" to "tax returns," that you and your wife filed for a

11:44 15 federal tax refund on March 23rd, 2001, in the amount of

16 \$4,143.72, which was just five days before your original

17 Chapter 13 petition was filed? Do you recall that?

18 A. I know we filed for a tax refund.

19 Q. All right. Let me show it to you.

11:44 20 Exhibit 24, do you recognize this as being your

21 1040 return?

22 A. Yes, sir.

23 Q. For tax year -- for 2000 --

24 A. 2000.

11:44 25 Q. -- correct?

11:44 1 And this is Bates Page 600?

2 A. Right.

3 Q. This is going to be tough to read, but feel free to look at

4 your copy.

11:45 5 Under the section "Refund," which is sort of cut

6 off on my copy, Line 67a, "Amount of Line 66 you want refunded

7 to you, \$4,143.72" --

8 A. Yes, sir.

9 Q. -- correct?

11:45 10 It's signed, again under penalty of perjury, by

11 you and your wife on March 23rd, 2001, correct?

12 A. Yes, sir.

13 Q. And has your occupation as judge and your wife -- your

14 wife's occupation as housewife?

11:45 15 A. Right.

16 Q. And this is on Page 601, correct, Bates page?

17 A. Yes, sir.

18 Q. March 23rd, 2001, less than a week before you filed

19 Chapter 13, correct?

11:45 20 A. Yes, sir.

21 Q. And on your schedule, you put that you had no refund?

22 A. When that was listed, you're right.

23 Q. Okay. From your Exhibit 25, from your Bank One bank

24 account, Judge G. Thomas Porteous, Jr., Account [REDACTED]

11:46 25 actually, that number is a little bit different than the one

1T:46 1 that was on the schedule. Maybe there was a typo.
2 If you look on Schedule B that we've read before,
3 this account starts with [REDACTED] but the actual statement
4 has a different few numbers that start. Probably just a typo,
11:46 5 don't you think?
6 A. I know there's bottom numbers on those checks. I always
7 called that account, I think, 00.
8 Q. All right. Now, going back to this Exhibit 25 --
9 A. Uh-huh.
11:47 10 Q. And I regret that I can't get this clearer; but it shows on
11 April 13th, a deposit of an IRS tax refund of \$4,143.72,
12 correct?
13 A. Yes, sir.
14 Q. And that deposit was April 13th?
11:47 15 A. Yes, sir.
16 Q. Just four days after your amended return was filed,
17 correct?
18 A. Yes, sir.
19 Q. Your amended return was April 9th?
11:47 20 A. Yes, April 9th.
21 Q. But nothing was mentioned on that return?
22 A. No. I know I called my -- I called Claude when I got it.
23 And by Claude, I meant Mr. Lightfoot. I'm sorry.
24 Q. You discussed that with Mr. Lightfoot?
11:47 25 A. I did.

11:48 1 Q. Did he tell you not to put it on the return?
2 A. No, no. I discussed that I received the refund, what
3 should I do with it.
4 Q. What did Mr. Lightfoot tell you?
11:48 5 A. Said, "If the trustee didn't put a lien on it, put it in
6 your account; but they may -- they may ask for it back."
7 Q. But, Judge Porteous, that schedule was signed under penalty
8 of perjury.
9 A. It was omitted. I don't know how it got omitted. There
11:48 10 was no intentional act to try and defraud somebody. It just
11 got omitted. I don't know why.
12 We had been fighting this, trying not to go into
13 bankruptcy for a long time. And I don't know. It just didn't
14 appear on the schedule.
11:48 15 Q. Okay.
16 JUDGE BENAVIDES: How many days before the schedule
17 was made that omitted that was the request for refund made of
18 the filing?
19 MR. FINDER: About five days, five days from the
11:49 20 original petition, your Honor. The schedule was on the amended
21 petition and --
22 JUDGE BENAVIDES: Well, I'm trying to get the
23 difference in date between the date he signs the statement
24 saying he has no refund coming --
11:49 25 MR. FINDER: Right.

11:49 1 JUDGE BENAVIDES: -- and the date that he asked for a
2 refund from -- on his tax return.
3 MR. FINDER: Right. The original petition was
4 filed -- it was about five days before the original petition.
11:49 5 JUDGE BENAVIDES: All right.
6 MR. FINDER: Right. And the schedule was April 9th,
7 but -- and it was listed -- it was not listed on it. It was
8 listed as "none."
9 BY MR. FINDER:
11:49 10 Q. Okay. Judge Porteous, let's go back to Schedule B,
11 Question 2 --
12 A. All right.
13 Q. -- where it says, "checking, savings or other financial
14 accounts."
11:50 15 A. Right.
16 Q. And you listed a hundred dollars?
17 A. Right.
18 Q. Can you see -- okay. And again, this was in April, right?
19 A. Yeah.
11:50 20 Q. Okay. April 9th?
21 A. Yes, sir.
22 Q. And we have -- do you recall, Judge Porteous, owning a
23 Fidelity money market account, Account Number [REDACTED]
24 A. Right.
11:50 25 Q. Okay. Let me show you, Judge Porteous, Exhibit 28.

11:51 1 A. All right.
2 Q. Which is your Fidelity money market account, correct?
3 A. Yes, sir.
4 Q. And this is for you and your wife, correct?
11:51 5 A. Right.
6 Q. The account number I just read, correct?
7 A. Right.
8 Q. Statement period March 21, 2000, through April 20th,
9 2000 -- I'm sorry, 2001 through April 20th, 2001, correct?
11:51 10 A. Right.
11 Q. And you see on March 28th, Check Number 581 for \$283.42,
12 your balance, right? That was your balance in that account?
13 A. That's what it says, that's correct.
14 Q. Okay. Yet, on your bankruptcy schedule, you put that the
11:51 15 account -- this was the day before bankruptcy; and on your
16 bankruptcy schedule you put you only had a hundred dollars in
17 the account, correct?
18 A. It appears this is the Fidelity account.
19 Q. Right.
11:51 20 A. And since it's not listed, for some reason it didn't
21 appear, apparently, on my bankruptcy, because only Bank One
22 appeared, it looks like.
23 Q. Okay.
24 A. Although, I thought I told Claude about all the -- I only
11:52 25 had two.

11:52 1 Q. Well, your attorney told you to get all your records --

2 A. Right.

3 Q. -- and make --

4 A. I could have sworn --

11:52 5 Q. Correct.

6 A. I honestly believed we told Claude about Fidelity. There
7 was really no reason not to tell him about Fidelity. The
8 account at any given time which would have had the most money
9 would have been the Bank One account because my checks were
10 deposited in there.

11 JUDGE LAKE: Mr. Finder, I'm not clear. Are we
12 talking about the difference in the Bank One disclosure and --

13 MR. FINDER: No. It wasn't listed, Judge, and was an
14 account -- there was more money than was listed on the
11:52 15 schedule.

16 JUDGE LAKE: You're saying the account was not
17 disclosed at all?

18 MR. FINDER: I don't believe it was.

19 CHIEF JUDGE JONES: Fidelity or Bank One?

11:52 20 MR. FINDER: Bank One was -- Bank One was disclosed.

21 CHIEF JUDGE JONES: For too small an amount?

22 MR. FINDER: Right.

23 CHIEF JUDGE JONES: Fidelity was not disclosed?

24 MR. FINDER: Correct.

11:53 25 JUDGE LAKE: And where in the charge is Fidelity

17:53 1 referred to? That's the question.

2 MR. FINDER: I believe it was in -- on Page 12. It's
3 not -- the name of the institution isn't in there, but
4 that's --

11:53 5 JUDGE BENAVIDES: How much was in Fidelity at the time
6 of the filing?

7 MR. FINDER: The balance on the day before bankruptcy
8 was \$283.42.

9 JUDGE LAKE: So, that's the last bullet point on Page
11:53 10 12, is the Fidelity account?

11 MR. FINDER: Yes, sir.

12 JUDGE BENAVIDES: And, then, the one that was
13 listed --

14 MR. FINDER: The Bank One for a hundred, I believe
11:53 15 we'll have more evidence later on that.

16 JUDGE BENAVIDES: Okay. That's not here yet.

17 THE COURT REPORTER: I'm sorry, Judge?

18 JUDGE BENAVIDES: That's not presently before us. I
19 think Mr. Finder is saying he's getting to that later.

11:53 20 MR. FINDER: Actually, in the charge, we had a balance
21 of 280 and the actual amount was \$283.42; so, there was a \$3.42
22 variance.

23 BY MR. FINDER:

24 Q. Now, Judge Porteous, we already discussed, from Exhibit 1,
11:54 25 Bates Page 112, the statement of financial affairs and the

11:54 1 jurat that had to be -- it was being signed under penalty of
2 perjury. Do you remember that?
3 A. Right.
4 Q. Okay. And on this page it says, "Payments to creditors.
11:54 5 List all payments on loans, installment purchases of goods or
6 services, and other debts aggregating more than \$600 to any
7 creditor made within 90 days immediately preceding the
8 commencement of this case."
9 And then in parenthesis, "Married debtors filing
11:55 10 under Chapter 12 or Chapter 13 must include payments by
11 either/or both spouses whether or not a joint petition is
12 filed, unless the spouses are separated and a joint petition is
13 not filed."
14 Did I read that accurately?
11:55 15 A. You did.
16 Q. And where it requests the name and address of the
17 creditors, it just says "Normal Installments," correct?
18 A. Yes, sir.
19 Q. Let's go back to our Fleet Credit Card, Exhibit 29.
11:55 20 And, again, here is a -- sorry. I had the wrong
21 page. Give me a moment. Here it is.
22 This is the account number we discussed before,
23 correct, from the Fleet Credit Card for Mrs. Porteous?
24 A. Yes, sir.
11:56 25 Q. The balance of \$1,088.41, correct?

11:56 1 A. That's what it says, yes, sir.

2 Q. That's what it says.

3 And the date of this statement -- under the
4 account number, it has payment due date April 15th, 2001, with
11:56 5 a new balance of 1088.41, correct?

6 A. Yes, sir.

7 Q. Now, the next statement, for the end of March and April,
8 shows past due amount zero because of the previous balance a
9 thousand -- there was a previous balance of 1,088.41. Do you
11:57 10 see that?

11 A. All right. Yes, sir.

12 Q. And then there was a payment recorded by the credit card
13 company on March 29th, 2001?

14 A. All right.

11:57 15 Q. Of 1,088.41?

16 A. Right.

17 MR. FINDER: Your Honor, this is what you were getting
18 at a little earlier.

19 BY MR. FINDER:

11:57 20 Q. Plus charges -- new charges for GameCash. Is that a
21 casino?

22 A. Is what? I'm sorry.

23 Q. GameCash?

24 A. I'm sure it is.

11:57 25 Q. Biloxi, Mississippi?

11:57 1 A. Sounds like it.
2 Q. And Beau Rivage Hotel in Biloxi, that's a casino, isn't it?
3 A. It is.
4 Q. For \$215.99 and \$231, respectively, correct?
11:57 5 A. Yes, sir, that's what it reflects.
6 Q. So, that was not listed on your schedule, was it, that
7 payment?
8 A. No, sir.
9 JUDGE LAKE: Which payment?
11:58 10 MR. FINDER: The Fleet.
11 JUDGE LAKE: Where --
12 MR. FINDER: I'm sorry?
13 JUDGE LAKE: Where are you referring when you say,
14 "That payment was not listed on your schedule"?
11:58 15 MR. FINDER: On page --
16 JUDGE LAKE: Are you referring to the 1,088 payment?
17 MR. FINDER: That's correct.
18 JUDGE LAKE: What about the subsequent payments?
19 MR. FINDER: Well, the 1,088, which was paid right
11:58 20 before the bankruptcy was filed -- at the time of the
21 bankruptcy filing, was not listed even though the schedule
22 called for all such payments prior to the filing of bankruptcy.
23 And this is the payment that --
24 CHIEF JUDGE JONES: Well, then new charges were
11:58 25 incurred at the casino?

11:58 1 MR. FINDER: Among other places.
2 CHIEF JUDGE JONES: After -- yes, after.
3 Mr. Finder, we're going to take a break around
4 noon; so, you have about five minutes.
11:58 5 MR. FINDER: Okay. Thank you.
6 BY MR. FINDER:
7 Q. Judge Porteous, do you recall obtaining two 1,000-dollar
8 markers -- we may have -- we touched on this earlier --
9 2,000 -- two 1,000-dollar markers from Grand Casino Gulfport on
11:59 10 or about February 27th, 2001, which were deposited against your
11 bank account on April 4th, one week after the filing of your
12 Chapter 13 petition?
13 Do you have an independent recollection of that?
14 A. No, I do not have an independent recollection.
11:59 15 Q. Or five days before the amended voluntary petition?
16 A. I do not have an independent recollection of that.
17 Q. All right.
18 MR. FINDER: Judges, this may be a good place to stop
19 before I go on to the next area, as long as we're going to
11:59 20 break for lunch.
21 CHIEF JUDGE JONES: Okay. We'll take about an hour.
22 THE WITNESS: 1:00 o'clock, your Honor?
23 CHIEF JUDGE JONES: Yes, sir.
24 THE WITNESS: Judge, just for my own information, what
12:00 25 time will we be going till today? I'm not --

11:00 1 CHIEF JUDGE JONES: We think until around 5:00.
2 THE WITNESS: Okay. I just was asking. That's all.
3 CHIEF JUDGE JONES: Yes.
4 THE WITNESS: Thank you.
12:00 5 CHIEF JUDGE JONES: All right. Thank you.
6 We'll be in recess.
7 (Recess taken from 12:00 p.m. to 1:05 p.m.)
8 CHIEF JUDGE JONES: Be seated, please. We're ready to
9 resume.
01:04 10 MR. FINDER: Your Honors, I would like to clarify a
11 couple questions you had asked me at the bench.
12 BY MR. FINDER:
13 Q. Judge Porteous, let me call your attention again to
14 Schedule B.
01:05 15 JUDGE LAKE: I can't hear you.
16 MR. FINDER: Oh, I'm sorry.
17 JUDGE LAKE: Just pretend there is a whole platoon out
18 here awaiting your instructions.
19 JUDGE BENAVIDES: You may proceed. She has indicated
01:05 20 she'll be right back.
21 MR. FINDER: Oh, okay. Okay. Your Honors had asked
22 me a question regarding one of the matters about the Bank One
23 bank account, the hundred dollars. I don't recall which one of
24 you asked me, but it was in regard to Number 22 in the charge
01:05 25 on Page 12; and I wanted to clarify that.

01:05 1 BY MR. FINDER:

2 Q. Judge Porteous, let me call your attention again, please,
3 to Schedule B --

4 A. Okay.

01:05 5 Q. -- Number 2, the check where you were asked to list your
6 checking accounts.

7 JUDGE BENAVIDES: I'm sorry, counsel. I can't hear
8 you.

9 MR. FINDER: I'm sorry, Judge.

11:59 10 BY MR. FINDER:

11 Q. Call your attention to Schedule B, where you're asked --
12 Number 2, where you're asked to list your checking accounts and
13 I believe you put Bank One and a checking account number for
14 \$100. I believe we established that the account number had a
01:06 15 typographical error and was close but not exact.

16 Do you recall that?

17 A. All I think that meant was that the -- at the bottom of the
18 check, the banks use additional numbers. I think it was 690
19 would have been left out is all.

01:06 20 Q. That's fine. You're correct.

21 I'm going to show you now from Exhibit 27, which
22 we've already referenced but I -- there's a line on here I had
23 not referenced. This is from your Bank One statement. You can
24 see your name on there with the actual account number; and the
01:06 25 date of the statement is March 23rd to April 23rd, 2001.

01:06 1 It says, "Summary of Account Balance." The
2 balance as of April 23rd, which is the last day of the
3 statement period, was \$5,493.91. April 23rd being five days
4 before the amended petition was filed, correct?

01:07 5 A. Correct.
6 Q. Moving up a little bit, I believe it says --
7 A. Wait. I'm sorry. You said April 23rd being five days
8 before the amended petition was filed?
9 Q. I'm sorry. I'm wrong. It was after the amended petition
01:07 10 was filed. Forgive me.
11 Beginning balance, five fifty-nine oh seven;
12 ending balance 5493.91, correct?
13 A. Yes, sir.
14 MR. FINDER: Your Honors asked me to -- a question
01:07 15 about Number 23 in the charge, appearing on Pages 13 and 14,
16 having to do with who paid the Fleet Credit Card.
17 BY MR. FINDER:
18 Q. Judge Porteous, I'm going to show you Exhibit 29. And,
19 again, to refresh your recollection, this is the account number
01:08 20 to your Fleet Credit Card with a balance of \$1,088.41 on a
21 statement that is for the month of March.
22 You can see the account transactions, March 5th
23 through March 19th, correct?
24 A. Yes, sir.
01:08 25 Q. And the end -- and the new balance as of the -- this

01:08 1 statement is \$1,088.41. Did I --
2 A. Yes.
3 Q. -- state that correctly?
4 Okay. That's Page 618.
01:08 5 A. All right.
6 Q. Page 620, another Fleet Credit Card statement for the same
7 account shows the payment of \$1088.41, which Fleet recorded on
8 March 29th, correct?
9 A. Yes, sir.
01:09 10 Q. And that's one day after you filed the voluntary petition,
11 the first -- the original petition, correct?
12 A. The date they recorded it, yes.
13 Q. All right. Now showing you from Bates Number 619 --
14 MR. FINDER: What's the exhibit number for this?
01:09 15 MR. WOODS: Twenty-nine, I believe.
16 MR. FINDER: Exhibit --
17 MR. WOODS: Twenty-nine.
18 MR. FINDER: -- 29. Right, 29.
19 BY MR. FINDER:
01:09 20 Q. Check Number 1660 on the account of Rhonda F. Danos, dated
21 3-23-01, right -- five days before bankruptcy?
22 A. All right.
23 Q. Payable to Fleet in the same amount, \$1088.41, correct?
24 A. Yes, sir.
01:10 25 Q. And here in the highlighted portion for the memo, where it

01:10 1 says "For," "Carmella Porteous." And it has the Fleet bank
2 account number, correct?
3 A. Yes.
4 Q. So, it appears that Ms. Danos paid off Fleet, correct?
01:10 5 A. Well, her check did, yes.
6 Q. Her check did.
7 Which would have preferred Fleet 'as -- which was
8 paid off right before bankruptcy, as opposed to the other --
9 other creditors, correct?
01:10 10 A. I presuppose [sic] so. I'm not --
11 Q. Now, why was it, sir, that Rhonda Danos happened to pay off
12 your wife's credit card days before you filed bankruptcy?
13 A. I have no idea. I'm sorry.
14 MR. FINDER: Did your Honors have any more questions
01:10 15 about --
16 A. What date was that? I'm sorry, counselor.
17 BY MR. FINDER:
18 Q. The date of --
19 A. I have no idea.
01:11 20 Q. Judge Porteous, was Rhonda Danos in the habit of paying off
21 your wife's bills?
22 A. No, not that I'm aware of. I mean, she's paid some bills
23 for me, though.
24 Q. But you're not aware of her paying your wife's bills?
01:11 25 A. No. She didn't pay my wife's bill. A check paid it.

01:11 1 Q. Well, the check is made payable to your wife's creditor,
2 Fleet.
3 A. Right, a check paid it.
4 JUDGE BENAVIDES: Can I see that check again?
01:11 5 MR. FINDER: Yes, your Honor.
6 JUDGE BENAVIDES: All right.
7 MR. FINDER: Can you see?
8 BY MR. FINDER:
9 Q. Judge Porteous, did you ask Rhonda Danos to write that
01:11 10 check for payment of the Fleet account?
11 A. I have no recollection of asking her to do that.
12 Q. All right. Judge Porteous, on April 9th, 2001, when you
13 signed the statement of financial affairs in your bankruptcy
14 under penalty of perjury, which was on Exhibit 1, Bates
01:12 15 Number 116, Item 8 talks about losses.
16 Do you -- do you recall that independently, sir,
17 or do you have it in front of you?
18 A. I do not have that in front of me.
19 Q. All right. Can you read that?
01:12 20 A. Yes, sir.
21 Q. Okay. It asks you to list all losses for fire, theft,
22 other casualty, gambling within one year immediately preceding
23 the commencement of this case -- meaning your case -- or since
24 the commencement of this case. And I believe we read this
01:13 25 before, about married debtors filing under Chapter 12 and

01:13 1 Chapter 13.
2 And you list "none," correct?
3 A. That's what's listed, correct.
4 Q. Judge Porteous, do you recall that in the -- that your
01:13 5 gambling losses exceeded \$12,700 during the preceding year?
6 A. I was not aware of it at the time, but now I see your
7 documentation and that -- and that's what it reflects.
8 Q. So, you -- you don't dispute that?
9 A. I don't dispute that.
01:13 10 Q. Therefore, the answer "no" was incorrect, correct?
11 A. Apparently, yes.
12 Q. Even though this was signed under oath, under penalty of
13 perjury, correct?
14 A. Right.
01:13 15 The casino, you don't get a gratuitous statement
16 every year from them. I mean, you would have to get it from
17 them.
18 Q. You would have to ask for it?
19 A. Yes.
01:13 20 JUDGE LAKE: I couldn't hear. What you did you say?
21 THE WITNESS: You have to ask -- they don't send a
22 statement or anything, Judge. If you want to know your status,
23 you can go ask them; but they don't routinely send -- in fact,
24 they never send it out.
01:14 25 JUDGE LAKE: Okay. But they -- if you call them, they

01:14 1 will tell you?

2 THE WITNESS: What's that? I'm sorry.

3 JUDGE LAKE: If you call them, then they will tell

4 you?

01:14 5 THE WITNESS: Yes, sir. I assume they would.

6 JUDGE LAKE: Okay. Thank you.

7 JUDGE BENAVIDES: How much was owing?

8 MR. FINDER: Sir? I'm sorry.

9 JUDGE PORTEOUS: Gambling losses.

01:14 10 JUDGE BENAVIDES: How much was the amount owing?

11 JUDGE LAKE: He said 12,700 the previous year.

12 MR. FINDER: Twelve thousand seven hundred.

13 And we'll -- through our summary witness, we'll

14 get into more detail about gross versus net; but for the

01:14 15 present purpose, that's -- that's the information.

16 BY MR. FINDER:

17 Q. Judge Porteous, we've talked about your bankruptcy lawyer,

18 Claude Lightfoot, right?

19 A. Yes, sir.

01:15 20 Q. And we also mentioned earlier in our examination the fact

21 that Regions Bank, where you had done some business, was listed

22 as an unsecured creditor in the original voluntary petition,

23 correct?

24 A. Right.

01:15 25 Q. Is it a fact, sir, that Circuit Judge W. Eugene Davis made

01:15 1 a finding of crime fraud as to attorney-client privilege as to
2 discussions between you -- discussions and documents between
3 you and Mr. Lightfoot regarding the Regions Bank?
4 A. That's my understanding, correct.

01:15 5 Q. Let me show you what's been marked as Exhibit 12, an order,
6 which at the time it was under seal, the order of crime fraud.
7 Have you seen this order before?
8 A. I believe so.
9 Q. Okay. And the actual order for crime fraud was signed by
01:16 10 Judge Davis on October 19th, 2004. Is that correct?
11 A. That -- if that's what it says, of course.
12 Q. October 19th, 2004?
13 A. That's what it says.
14 Q. Okay. Therefore -- I wanted to establish that before I ask
01:16 15 you questions --
16 A. I understand.
17 Q. -- about this transaction.
18 You and Mr. Lightfoot agreed, at least by
19 December 21st, 2000 --
01:16 20 MR. FINDER: I'm sorry. Can you hear me?
21 BY MR. FINDER:
22 Q. -- by December 21st, 2000, to send out workout letters to
23 your various unsecured creditors, correct?
24 A. We talked about that, that's correct.
01:16 25 Q. And the decision was made between you and Mr. Lightfoot to

01:17 1 exclude Regions Bank, which was an unsecured creditor in the
2 amount of \$5,000 plus finance charges, from the list of
3 unsecured creditors that received the workout letter, correct?
4 A. That's correct.

01:17 5 Q. Showing you, sir, what's been marked as Exhibit 5, on the
6 stationery of Claude Lightfoot to you and Mrs. Porteous, dated
7 December 21st, 2000, "Regarding workout proposal."

8 "Dear Judge and Mrs. Porteous, I enclose a copy
9 of the letters and one copy of the attachments. I included
01:17 10 with each that have sent -- that I have sent to all the
11 unsecured creditors with the exception of Regions Bank, which
12 we wanted to exclude."

13 Did I read that accurately?

14 A. You did.

01:17 15 Q. Signed by Mr. Lightfoot, correct?

16 A. Right.

17 Q. On -- on a copy. This is Bates Number 296.

18 297, Bates Number 297, is a sample letter that
19 went to Bank of Louisiana MasterCard. Are you familiar with
01:18 20 that?

21 A. I've seen -- I don't know if I'm familiar with that
22 exactly, but I think they all said the same thing.

23 Q. Now, we've talked about the Fleet Credit Card, also; and
24 here are the lists of credit -- unsecured creditors that were
01:18 25 listed in Mr. Lightfoot's letter.

01:18 1 Fleet is not on here, is it?
2 A. It is not.
3 Q. Okay. But of those that are listed, the 13, Mr. Lightfoot
4 totals them up to a sum of \$182,330.23 in credit card debt,
01:18 5 correct?
6 A. Right.
7 Q. Mr. Lightfoot goes on in his letter to tell these unsecured
8 creditors they should accept the workout proposal and there
9 would be a -- the universe of cash available to pay them out is
01:19 10 \$39,398.90, which represents about 21 percent of the balances,
11 correct?
12 A. That's what it says, correct.
13 Q. Right.
14 Also, it says Regions Bank was being excluded.
01:19 15 And, in fact, Regions Bank is not listed anywhere in the
16 letter, is it?
17 A. That's right.
18 Q. The loan with Regions Bank -- and I'll show you Exhibit 4.
19 A. All right.
01:19 20 Q. The loan with Regions Bank, the original loan --
21 A. Yes, sir.
22 Q. -- was for \$5,000 plus a finance charge of \$30; and it was
23 taken out on January 27, 2000, correct?
24 Boy, it's hard to read.
01:20 25 A. You're right.

01:20 1 Oh, yeah, that's better.
2 Yes, sir, it says --
3 MR. FINDER: Can you all see?
4 BY MR. FINDER:
01:20 5 Q. And this Account [REDACTED] represents the account for
6 that loan, right?
7 A. Yes, sir.
8 Q. And you are the borrower?
9 A. That's correct.
01:20 10 Q. You are the borrower, and the lender is Regions Bank. Have
11 I read that correctly?
12 A. Yes, sir.
13 Q. All right. And this is on Bates Number 272.
14 A. All right.
01:20 15 Q. In fact, sir, you signed the note, correct?
16 A. Yes, sir.
17 Q. That's your signature, right?
18 A. Yes, sir.
19 Q. And that's on Page 273.
01:20 20 On the workup papers for this loan, it says
21 the -- again, same account number, same principal, loan date,
22 etcetera, which matures July 24th, 2000.
23 A. All right.
24 Q. Primary purpose of the loan is a personal loan, correct?
01:21 25 A. Uh-huh.

01:21 1 Q. Stated purpose, "Tuition for son," correct?
2 A. Uh-huh.
3 Q. Now, who was the son for whom you were asking for tuition?
4 A. Timmy or Tommy, I would think.
01:21 5 THE REPORTER: I'm sorry?
6 JUDGE PORTEOUS: Timothy or Tommy.
7 BY MR. FINDER:
8 Q. But you're not sure sitting here today?
9 A. Sitting here today, I don't know.
01:21 10 Q. Okay. There was a statement in the middle of the workout
11 paper -- I'm sorry -- the loan application paper, "Financial
12 Condition."
13 I'll read it. "By signing this authorization, I
14 represent and warrant to lender that the information provided
01:21 15 above is true and correct and that there has been no federal
16 material adverse change in my financial condition as disclosed
17 in my most recent financial statement to lender."
18 This authorization is dated June -- January 27,
19 2000, signed by you, correct?
01:22 20 A. Yes, sir.
21 Q. And that's on Page 274 --
22 A. Yes, sir.
23 Q. -- right?
24 CHIEF JUDGE JONES: Is that 2000 or 2001?
01:22 25 MR. FINDER: 2000.

01:22 1 THE WITNESS: 2000.
2 MR. FINDER: I'm building up to it.
3 CHIEF JUDGE JONES: I see.
4 BY MR. FINDER:
01:22 5 Q. On this other loan -- page to the loan application, dated
6 January 24th, it says -- and this is a little hard to read, but
7 follow with me -- "In the last ten years, have you been
8 bankrupt or are you in the process of filing bankruptcy?" And
9 it's checked off, "No."
01:22 10 A. Right.
11 Q. And that's accurate, correct?
12 A. I believe so.
13 Q. That was Page 276.
14 A. Yes, sir.
01:22 15 Q. Now, this loan got extended a couple of times, right?
16 A. I don't recall, but was that a 60 -- a six --
17 Q. Six months.
18 A. Six months. Had to have gotten renewed at least once.
19 Q. Okay. Well, let's talk about the renewal.
01:23 20 Here's the loan date, 7-24. It's the same amount
21 plus another \$30 for the loan fee?
22 A. Right.
23 Q. So, it's the same loan because -- I believe it's the same
24 account number.
01:23 25 A. It is.

01:23 1 Q. All right. To you from Regions Bank. Everything else is
2 pretty much the same on this page, correct? ..
3 A. Right.
4 Q. And that page being 279?
01:23 5 A. Yes, sir.
6 MR. FINDER: I'm sorry, Judges. It's 279.
7 BY MR. FINDER:
8 Q. This loan is also signed by you, correct?
9 A. Yes, sir.
01:23 10 Q. And on the loan request it says, "Renewal of existing,"
11 right?
12 A. Yes, sir.
13 Q. And the loan officer -- or the branch -- who happens to be
14 the branch manager, I believe, Loretta Young, correct?
01:23 15 A. Yes, sir.
16 Q. As part of this loan package, you filled out the
17 information page, for, again, personal loan?
18 A. Right.
19 Q. "Specific Purpose," now it says, "Refinance existing." So
01:24 20 that's still for your son's tuition, correct?
21 A. Yes, sir.
22 Q. And the financial condition, you have still signed it?
23 A. Yes, sir.
24 Q. And this is July 24th, 2000?
01:24 25 A. Right.

01:24 1 Q. Let's jump ahead.
2 That was the first extension?
3 A. Yes, sir.
4 Q. Showing you now Bates 288, the second extension.
01:24 5 A. Yes.
6 Q. This loan is dated January 17th, 2001, correct?
7 A. Yes, sir.
8 Q. Matures July 17th, 2001?
9 A. Yes, sir.
01:25 10 Q. Now, January 17th, 2001, was a couple months before
11 bankruptcy, correct?
12 A. Ultimately, yes.
13 Q. Yes.
14 And, again, the rest of the terms are very
01:25 15 similar to the original and first extension, right?
16 A. Yes, sir, it appears to be.
17 Q. Okay. However, on January 17th, you had already engaged
18 Mr. Lightfoot to be your bankruptcy attorney, correct, because
19 we just saw the letters that went out for December?
01:25 20 A. I retained him to try and work out my debt and, if it
21 couldn't be worked out, to maybe consider bankruptcy.
22 Q. Right.
23 A. Correct.
24 Q. And on this loan, the second extension, you signed it?
01:25 25 A. Yes.

01:25 1 Q. And on the workup sheet to process the loan, again, by
2 Loretta Young?
3 A. Right.
4 Q. Your name?
01:26 5 A. Right.
6 Q. Same account number but here it says, "In the last -- In
7 the last ten years, have you been bankrupt or are you in the
8 process of filing bankruptcy?" And now it's checked "No"?
9 A. Right.
01:26 10 Q. In fact, by this time you had already -- as you just
11 stated, you had already talked to Mr. Lightfoot about trying to
12 work it out or going bankrupt, correct?
13 A. That's correct.
14 Q. So, that's a false statement, is it not?
01:26 15 A. I didn't mean it to be false, because I wasn't in the
16 process of declaring -- I was doing everything I could not to
17 file a bankruptcy. That's why I attempted for so long to do a
18 workout.
19 Q. But this is dated in January?
01:26 20 A. Right. We had not filed the bankruptcy.
21 Q. You hadn't filed yet.
22 A. I think the letters may have just gone out previous to
23 that.
24 Q. Okay. Let's look at the next page, Page 291 -- sorry.
01:26 25 The page we just referenced was Page 290?

01:26 1 A. Right.
2 Q. Let's move to the next page.
3 "Financial condition, by signing this
4 authorization, I represent and warrant to lender that the
01:27 5 information provided above is true and correct and there has
6 been no material adverse change in my financial condition."
7 Now, there had been a material adverse change in
8 your financial condition, hadn't there, since the last time you
9 received the loan from the bank?
01:27 10 A. I probably stood at the same amount of debt that I had when
11 I got the loan, but was I now in the process of trying to work
12 out a settle -- a payoff, yes.
13 Q. I'm sorry, sir. Maybe it's the way I asked the question.
14 Let me try it again.
01:27 15 Since your last -- since the last time you took
16 an extension on this loan, your financial condition had stayed
17 the same or deteriorated; it hadn't gotten any better, had it?
18 A. Hadn't gotten any better, that's correct.
19 Q. So, if you were in the banker's shoes, you would have no
01:27 20 reason to know that you were contemplating bankruptcy or
21 contacting bankruptcy counsel, because you have checked off on
22 this sheet that there's been no material change, correct?
23 A. I would have to object to that question. You're asking me
24 to presuppose my --
01:28 25 Q. You're right and -- you're correct, and I withdraw the

01:28 1 question.
2 A. Thank you.
3 Q. That is Page 291.
4 A. Right.
01:28 5 Q. Well, we know that Regions Bank eventually was given notice
6 of the bankruptcy, as were all --
7 A. They were.
8 Q. -- the other unsecured creditors, correct?
9 A. They were.
01:28 10 Q. But by then, Regions Bank had already given you a loan and
11 two extensions, correct?
12 A. Yes, sir.
13 Q. And when your bankruptcy --
14 MR. FINDER: I'm referring to Exhibit 1, Bates
01:28 15 Number 27.
16 BY MR. FINDER:
17 Q. When the trustee filed its final report in your bankruptcy,
18 where it says this case is completed, final meeting of
19 creditors, et cetera, it lists Regions Bank, does it not,
01:29 20 Number 23?
21 A. Yes, sir.
22 Q. And Regions Bank is getting a percentage of its outstanding
23 debt as an unsecured creditor at 34.55 percent, correct?
24 A. Right.
01:29 25 Q. Which means Regions Bank only got \$1,782.43 in this

01:29 1 bankruptcy, correct?

2 A. That's -- that's exactly what those documents show.

3 Q. But, again, when you applied for the last extension,

4 Regions Bank had no idea that you were -- that you were

01:29 5 discussing your financial condition with bankruptcy counsel,

6 correct?

7 A. They did not.

8 Q. Regions Bank didn't ask you for any kind of collateral to

9 collateralize the loan or move itself up from an unsecured

01:29 10 creditor to a higher level, did it?

11 A. No. Mr. Butler was a friend. No, they didn't.

12 Q. Mr. Butler, for the record, is Ed Buddy Butler, correct?

13 A. Yes.

14 Q. And you didn't tell him Mr. -- even though he was a friend,

01:29 15 you didn't tell him that you were having financial problems,

16 did you?

17 A. No, I did not.

18 Q. In fact, you and Mr. Butler even go to the same church,

19 right?

01:30 20 A. I can't say we haven't been to a church together. I don't

21 know that we go to the same church. It's possible.

22 Q. Okay.

23 A. I may have seen Buddy.

24 Q. Moving on, back to the workout letters that Mr. Lightfoot

01:30 25 sent out -- and, again, we're talking about Exhibit 5.

01:30 1 A. Uh-huh.
2 Q. With the exception of Regions Bank?
3 A. Right.
4 JUDGE LAKE: What exhibit are you looking at now?
01:30 5 MR. FINDER: Exhibit 5.
6 JUDGE LAKE: Okay.
7 MR. FINDER: I am going to work backwards. We just
8 talked about 5, and we're on it again.
9 JUDGE LAKE: All right.
01:31 10 A. Is that Exhibit 5, counselor?
11 BY MR. FINDER:
12 Q. Yes, sir.
13 A. Or your Bates Number 5?
14 Q. No. Exhibit 5, Bates Number 296.
01:31 15 A. Okay. I just -- I saw an "SC" up at the top.
16 Q. And I think we may have discussed this briefly; but
17 Mr. Lightfoot listed approximately a hundred eighty -- a little
18 over \$182,000 in unsecured credit card --
19 A. Right. Right.
01:31 20 Q. Right?
21 When bankruptcy was filed and then your amended
22 bankruptcy, you have Schedule F --
23 A. Right.
24 Q. -- from Exhibit 1, Bates Number 102; and here Mr. Lightfoot
01:31 25 actually lists every single credit card that you've told him

01:31 1 about, right?
2 A. Yes, sir.
3 Q. Because he can't list credit cards that he doesn't know
4 about, he relies on you and/or Mrs. Porteous to give him the
01:32 5 financial picture so he can make a true and correct listing on
6 here?
7 A. That's correct.
8 Q. Of course, Fleet, as we determined earlier, is not on it?
9 A. It's not on it.
01:32 10 Q. Okay. I believe -- and just by manual counting, there are
11 now 15 credit cards. And I -- you can take my word for it or
12 I'll hand you the exhibit and you can count them up.
13 A. I have no reason to doubt your representation.
14 Q. And now -- and now Regions Bank --
01:32 15 A. Right.
16 Q. -- is also listed, for \$5,000, correct?
17 A. Yes, sir.
18 Q. More importantly, the amount of unsecured debt has gone up
19 to 196,000, correct?
01:32 20 A. Yes, sir, that's what it says.
21 Q. That's from the workout letter, where it was less?
22 A. Whatever it was, yeah.
23 Q. You were a federal judge at this time, of course?
24 A. Right.
01:32 25 Q. And you filed a financial disclosure report for calendar

01:32 1 year 2000 and -- on May 10th, '01, correct?
2 A. Right.
3 Q. I'm referring to Exhibit 3, Bates Number 20 -- I'm sorry,
4 2 --
01:33 5 A. 00239.
6 Q. 239.
7 And this is your disclosure, is it not, sir?
8 A. Appears to be, of course.
9 Q. Well --
01:33 10 A. It is. I mean, it says it's me.
11 Q. Let's look at the last page, Bates Number 242.
12 A. That's me.
13 Q. That's your signature, right?
14 A. (Nodding head).
01:33 15 Q. Okay. Now, here, under Section VI -- Roman Numeral VI, I
16 believe, "Liabilities" --
17 A. Yes, sir.
18 Q. -- you list but two credit cards: MBNA credit card, Value
19 Code J; and Citibank credit card, Value Code J?
01:33 20 A. Right.
21 Q. And the legend on the bottom that has "Value Code" says,
22 "J, \$15,000 or less," correct?
23 A. Right.
24 Q. So, according to your financial disclosure, your
01:34 25 liabilities did not exceed \$30,000, correct?

01:34 1 A. According to the disclosure.
2 Q. Okay. Now, according to the disclosure, you have to
3 certify these. Isn't that right, Judge?
4 A. Right. Right.
01:34 5 Q. And I believe it says, "I certify that all information
6 given above, including information pertaining to my spouse and
7 minor dependent children, if any, is accurate, true, and
8 complete to the best of my knowledge and belief, and that any
9 information not reported was withheld because it met applicable
01:34 10 statutory provisions permitting nondisclosure," with your
11 signature and signed on the 10th of May, 2001, correct?
12 A. Yes, sir.
13 Q. It also says that, "Any individual who knowingly and
14 willfully falsifies or fails to file this report may be subject
01:35 15 to civil and criminal sanctions," citing -- citing 5 United
16 States Code Appendix, Section 104, which I believe we covered
17 earlier this morning, correct?
18 A. I believe we did.
19 Q. All right. Well, Judge Porteous, you listed, as I said,
01:35 20 two credit cards, which you have admitted to, MBNA and Citi?
21 A. Right.
22 Q. In fact, if we go back to Schedule F of Exhibit 1, starting
23 on Bates Number 102, you have not just a Citibank account; but
24 you have -- one, two -- three Citibank accounts, right?
01:35 25 A. There are three accounts. I don't know if they were in my

01:35 1 name or my wife's; but, yeah, there were three Citi. That's
2 what listed.
3 Q. Right. But, again, you filed jointly?
4 A. Yeah. But I'm just saying I -- there are three accounts
01:35 5 listed. You're correct.
6 Q. The first one under Number 4 -- the next one under 4, is
7 \$23,987 and change, correct?
8 A. I can't see it because your arm is there.
9 Q. I'm sorry.
01:36 10 A. But, again, whatever is reflected is reflected.
11 Q. The second one to Citi is \$20,719.58?
12 A. Right.
13 Q. The third one is -- the third Citi account --
14 A. Right.
01:36 15 Q. -- 17,711.35.
16 These are both on Pages 102 and 103 of the
17 exhibit, that being Exhibit 1.
18 Similarly, going back, you say -- you list an
19 MBNA credit card, again, just like Citi, \$15,000 or less debt.
01:36 20 Now, the debts for all of the three Citi accounts
21 exceeded 15,000, didn't they?
22 A. Yes, sir.
23 Q. MBNA does have one less than 15,000. It has one for
24 \$3,212.80, right?
01:37 25 A. Yes.

07:37 1 Q. But it also has a second one at \$30,931.02, correct?
2 A. Yes, sir.
3 Q. Therefore, Judge Porteous, your certification of the -- of
4 your liabilities that you signed on April 10th --
01:37 5 A. May 10th.
6 Q. I'm sorry. May 10th. Forgive me.
7 -- was false, correct?
8 A. It was not correct. It was not accurate, correct.
9 JUDGE BENAVIDES: Which of the financial reports --
01:38 10 which year are you --
11 CHIEF JUDGE JONES: Year 2000.
12 JUDGE BENAVIDES: 2000 -- of course, if it was filed
13 in 2001, it would refer to the calendar year ending 2000.
14 MR. FINDER: Correct.
01:38 15 JUDGE BENAVIDES: All right.
16 MR. FINDER: For calendar year 2000, that is on
17 Page 239. That is correct, your Honor.
18 BY MR. FINDER:
19 Q. Judge Porteous, over the years, how much cash have you
01:38 20 received from Jake Amato and Bob Creely or their law firm?
21 A. I have no earthly idea.
22 THE REPORTER: I'm sorry?
23 MR. FINDER: I'm sorry. Jake Amato, A-M-A-T-O. Jacob
24 Amato, Robert Creely, C-R-E-E-L-Y, or their law firm.
01:39 25 BY MR. FINDER:

01:39 1 Q. Amato & Creely, I believe they are called.
2 A. Right.
3 Q. Is that correct?
4 A. Yeah.
01:39 5 Q. You do not know how much you've received from them?
6 A. I do not.
7 Q. Those men or their -- and/or their firm, correct?
8 A. That's correct.
9 Q. It could have been \$10,000 or more. Isn't that right?
01:39 10 A. Again, you're asking me to speculate. I have no idea is
11 all I can tell you.
12 Q. When did you first start getting cash from Messrs. Amato,
13 Creely, or their law firm?
14 A. Probably when I was on state bench.
01:39 15 Q. And that practice continued into 1994, when you became a
16 federal judge, did it not?
17 A. I believe that's correct.
18 Q. Now, when Messrs. Amato and Creely -- and I'm only talking
19 about them right now --
01:39 20 A. I understand.
21 Q. -- and their law firm, not -- we'll talk about others
22 later. But when those men gave you money, did you consider it
23 a gift or a loan or income?
24 A. I never considered it income. It was either a gift or a
01:40 25 loan.

01:40 1 Q. Okay. If it was a loan, did you ever pay it back?
2 A. No, I didn't.
3 Q. Then, it became income, correct?
4 A. I don't know.
01:40 5 Q. Well, again, your Honor, I don't want to argue with you;
6 but --
7 A. I'm not arguing with you.
8 Q. -- if I loan you a hundred dollars and you don't pay it
9 back, that becomes income, correct?
01:40 10 A. It still may be a gift.
11 Q. If it was a loan and it's not forgiven as a gift, then it's
12 income, correct?
13 A. Right.
14 Q. But none of that ever appeared in your federal tax
01:40 15 return --
16 A. No --
17 Q. -- as income, correct?
18 A. -- it did not.
19 Q. Now, if it was a gift, it would have been on your financial
01:40 20 disclosure reports for 1994, which starts at Bates 215; 1995,
21 which starts at Bates 219; 1996, which starts at Bates 223;
22 1997, which starts at Bates 227; 1998, Bates 231; through 1999,
23 Bates 235, which we already reviewed.
24 I could show you these, Judge Porteous; but I'll
01:41 25 just ask you the question. Did you ever list any gifts from

01:41 1 Amato or Creely, cash gifts, in any of these financial
2 disclosures?
3 A. No.
4 Q. But you certified every one as being true and correct?
01:41 5 A. Correct.
6 Q. And there was an omission, then, correct?
7 A. Not that I'm aware of.
8 Q. Well, if someone gave you money during those years and it
9 was more than \$250, wouldn't that be reportable?
01:41 10 A. I do not recall receiving any cash from them during that --
11 Q. Do you recall in 1999, in the summer, May, June, receiving
12 \$2,000 for them?
13 A. I've read Mr. Amato's grand jury testimony. It says we
14 were fishing and I made some representation that I was having
01:42 15 difficulties and that they loaned me some money or gave me some
16 money.
17 Q. You don't -- you're not denying it; you just don't remember
18 it?
19 A. I just don't have any recollection of it, but that would
01:42 20 have fallen in the category of a loan from a friend. That's
21 all.
22 Q. Has the loan ever been paid back --
23 A. No.
24 Q. -- if you got it?
01:42 25 A. No.

01:42 1 JUDGE BENAVIDES: Were any loans reported on the
2 disclosure statements?
3 MR. FINDER: No, sir.
4 THE WITNESS: I believe -- I'm not sure, but I don't
01:42 5 know the reported amount on the loans.
6 JUDGE BENAVIDES: But whether a loan or a gift, it
7 wasn't -- it wasn't --
8 THE WITNESS: It wasn't reported.
9 JUDGE BENAVIDES: -- to the extent that they might
01:42 10 exist, they weren't reported, either as a loan or a gift?
11 THE WITNESS: That's correct, Judge.
12 MR. FINDER: Right.
13 BY MR. FINDER:
14 Q. The exhibits that I just talked about, the years 1994
01:42 15 through '99, all have sections on liabilities and those are not
16 reported?
17 A. That's right.
18 Q. If I misstate, please correct me.
19 A. No. You're correct.
01:43 20 Q. Other than gifts of cash, did you ever fail to report --
21 from lawyers or others, not just Creely and Amato or their law
22 firm, but anybody else, not including your personal family
23 members -- cash gifts for entertainment or family needs,
24 including but not limited to hunting trips, fishing trips,
01:43 25 airfare, lodging, dining, trips out of the country or out of

DT:43 1 state, such as Washington, D.C. or Las Vegas, parties for your
2 children, stipends for your children, tuition for your
3 children, car notes, mortgage payments, or gambling expenses
4 for you or your wife?

01:43 5 A. I'm sure I didn't include anything on that.

6 Q. And I have the reports here if you want to refresh your
7 recollection.

8 A. I understand.

9 Q. Did you ever report gifts that your court staff may have
01:43 10 received along with you, such as dining, travel, or
11 entertainment?

12 A. I'm sure I didn't.

13 Q. And I could go through that for every one of these
14 reporting years, but would that be -- your answer be the same
01:44 15 for years 1994, 19 -- through 1999 inclusive?

16 A. I absolutely agree that that's what those documents show
17 and certify.

18 JUDGE BENAVIDES: You're referring to the same
19 questions as to reporting on those other years?

01:44 20 MR. FINDER: Yes, sir.

21 JUDGE BENAVIDES: All right. Counsel, with respect to
22 that last question, was -- was there an exception -- I thought
23 there was a report of a couple of fishing -- hunting trips or
24 fishing trips.

01:45 25 MR. FINDER: I believe those were Bar -- related to

01:45 1 Bar associations, but let me look quickly so I don't make a
2 mistake.

3 JUDGE BENAVIDES: I thought there were a couple of
4 trips that he reported, at least in the exhibits that I saw.

01:45 5 MR. WOODS: Two hunting trips.

6 JUDGE BENAVIDES: Two hunting trips.

7 MR. WOODS: Rowan and the other --

8 THE REPORTER: I'm sorry?

9 MR. WOODS: I'm sorry.

01:45 10 THE WITNESS: There were two included in the original
11 complaint filed by Justice, but not included in the ultimate
12 charge from the Court.

13 BY MR. FINDER:

14 Q. In the documents that I referred to, I didn't see hunting
01:46 15 trips. I've seen reimbursements from Bar associations, but not
16 hunting trips; and if I missed it, please correct me.

17 A. We had --

18 MR. WOODS: Judge Porteous is correct. There are two
19 instances on his financial disclosure forms where he reports a
01:46 20 Rowan -- Rowan Drilling Company trip.

21 THE WITNESS: "Rowan." Yeah.

22 MR. WOODS: And one other, Diamond.

23 THE REPORTER: I'm sorry?

24 THE WITNESS: Diamond.

01:46 25 MR. WOODS: Diamond Drilling Company.

01:46 1 JUDGE BENAVIDES: So, with those exceptions, there was
2 no reports --

3 MR. WOODS: Yes.

4 JUDGE BENAVIDES: -- of loans or gifts or anything
01:46 5 with respect to hunting trips or any of these other things,
6 with the exceptions of those ones?

7 MR. WOODS: That's correct. There are none except
8 those two.

9 MR. FINDER: And I'm still looking, and I haven't seen
01:47 10 them. So, I'm not sure if it's for these years or not; but I
11 think --

12 JUDGE BENAVIDES: I don't know. It may be a
13 different reporting period.

14 *(Sotto voce discussion between counsel)*

11:59 15 BY MR. FINDER:

16 Q. Judge Porteous, I'm going to show you from Exhibit 20 --

17 MR. FINDER: Bates Number 585, your Honors. Let me
18 make this smaller.

19 BY MR. FINDER:

01:48 20 Q. Do you recognize this, sir, a casino credit application for
21 Harrah's casino?

22 A. Yes, sir, that's what it says.

23 Q. Okay. And the purpose of this is what?

24 A. To be able to sign markers.

01:48 25 Q. Correct.

01:48 1 And it is dated April 30th, 2001, correct?

2 A. Right.

3 Q. And that is just two days -- three days -- March has 31

4 days -- three days after bankruptcy, correct?

01:48 5 A. Yes, sir.

6 No. Wait.

7 MR. WOODS: April.

8 BY MR. FINDER:

9 Q. April. I'm sorry.

01:48 10 After your -- forgive me. After your amended

11 petition, it was a couple -- two and half, three weeks after

12 your amended petition?

13 A. Yes, sir.

14 Q. You list under "Financial Information" income of over a

01:48 15 hundred thousand --

16 A. Right.

17 Q. -- in salary.

18 Over \$250,000 in a home?

19 A. Right.

01:48 20 Q. Indebtedness, zero, correct?

21 A. That's not my handwriting. I don't -- I don't know who

22 filled that out.

23 Q. Is this your handwriting?

24 A. That is.

01:49 25 Q. So, you don't know --

01:49 1 A. That is not my handwriting.
2 Q. Well, when you signed this, was there anything on there?
3 Did somebody put it on there after you signed it?
4 A. I have -- cannot tell you that. I don't know that. But
01:49 5 that is not my handwriting.
6 Q. And --
7 A. If I look at the rest of it, I can tell you if it is.
8 Q. Well -- (Indicating).
9 A. The rest of it -- now, don't -- okay. You get towards the
01:49 10 top, that's --
11 JUDGE BENAVIDES: There's a certification above your
12 handwriting. "I certify that I reviewed all the information
13 provided above and it is true and accurate."
14 THE WITNESS: I don't -- yeah, Judge. I'm just saying
01:49 15 it's not my handwriting is all.
16 BY MR. FINDER:
17 Q. So, even though it's certified as being true and correct,
18 you don't take responsibility for the indebtedness --
19 A. I don't know that that was on there when I signed it. I
01:49 20 just don't have any recollection.
21 Q. We talked about Messrs. Creely and Amato and their law
22 firm, the law firm of Creely & Amato.
23 A. Right.
24 Q. Mr. Creely is what kind of a lawyer? What kind of a
01:50 25 practice would you say he has?

01:50 1 A. Over the years, I think it's changed. Now he -- he was
2 in -- for awhile into multidistrict litigation, complex
3 litigation, class action type litigation.
4 Q. Mr. Amato started off pretty much as a personal injury
01:50 5 lawyer, didn't he?
6 A. Yeah.
7 Q. And throughout most of his career considered himself --
8 A. I think he was a personal injury lawyer. I never knew Jake
9 to take a divorce case or anything like that.
01:50 10 Q. And nor did he practice that often in federal court,
11 correct? As far as you know?
12 A. As far as I know.
13 Q. Other than Messrs. Creely and Amato and their law firm, we
14 talked about other lawyers in this case, such as Mr. Levenson.
01:51 15 Have you received any cash from Mr. Levenson?
16 A. No, not that I -- to the best of my knowledge, I have never
17 received any cash from Mr. Levenson.
18 Q. But Mr. Levenson, along with Messrs. Creely and Amato, it
19 would not be uncommon for them to take you out to lunch?
01:51 20 A. That's correct.
21 Q. And -- or dinners?
22 A. Yeah. On an occasion, I would think, yeah.
23 Q. Well, Mr. Levenson took you out to some places for lunch
24 or -- and/or dinner, such as Ruth's Chris or, before Hurricane
01:51 25 Katrina, Smith & Wollensky's. Isn't that correct?

01:51 1 A. I'm sure that's correct.
2 Q. And some -- and you were never -- you never paid, did you?
3 A. No.
4 Q. Now, other than Messrs. Amato and Creely, who else had --
01:52 5 what other lawyers -- lawyer friends of yours have given you
6 money over the years?
7 A. Given me money?
8 Q. Money, cash.
9 A. Gardner may have. Probably did.
01:52 10 Q. Let's talk about --
11 A. But I don't recall any others.
12 Q. Let's talk about Mr. Gardner.
13 A. All right.
14 Q. He's also a -- he was a divorce lawyer, wasn't he?
01:52 15 A. Mr. Gardner tries to do everything.
16 Q. So, if he said that he's a family lawyer, he -- that would
17 be --
18 A. I think that's what his practice is now.
19 Q. But not -- as far as you know, his practice is not
01:52 20 primarily in federal court?
21 A. No, not that I'm aware of.
22 Q. And when is the last time Mr. Gardner gave you money?
23 A. Before I took the federal bench, I'm sure.
24 Q. Okay. And do you recall how much?
01:52 25 A. Absolutely not.

01:52 1 Q. Now, when you were a state judge, did you ever report any
2 of these cash gifts on your Louisiana disclosure forms?
3 A. No. I don't think we actually received forms, but I don't
4 remember that.

01:53 5 Q. Okay.
6 A. Whether you received a form like the federal government,
7 where you have to fill it out, I don't believe they had
8 reporting forms at the time. I know what the statute says, but
9 I don't think it's like it is in federal court.

01:53 10 Q. Before you became a federal judge, you used -- as a state
11 judge, you used to send something called "curatorships" over to
12 the Creely-Amato firm, did you not?
13 A. And Gardner and all those, yeah.

01:53 14 Q. Just talking about Creely and Amato and their law firm
15 right now. You would occasionally, after sending them
16 curatorships -- and for the record, what is a -- how would you
17 describe a curatorship?
18 A. It's for an absent defendant. It could be in a variety of
19 situations. The most common two are executory process and then
20 interdiction.

01:53 21 Q. And after receiving curatorships, Mr. -- Messrs. Creely
22 and/or Amato and/or their law firm would give you money,
23 correct?
24 A. Occasionally.

01:54 25 Q. You mentioned before that you read the grand jury

01:54 1 transcript of Mr. Amato and were familiar with his allegations
2 about a fishing trip?

3 A. Right.

4 JUDGE BENAVIDES: Are you leaving the curatorship?

01:54 5 MR. FINDER: Yes, sir.

6 JUDGE BENAVIDES: You had an open-ended question about
7 whether he received money from these people after they were
8 appointed a curatorship.

9 MR. FINDER: Yes, sir.

01:54 10 JUDGE BENAVIDES: Do you intend to establish any
11 relationship between the receipt of money and the curatorship?

12 MR. FINDER: Not through this witness.

13 JUDGE BENAVIDES: Okay.

14 MR. FINDER: But if the Court has questions --

01:54 15 JUDGE BENAVIDES: I just didn't know whether to -- I
16 don't want to interrupt you --

17 MR. FINDER: That's all right.

18 JUDGE BENAVIDES: -- or your train of thought about it
19 but --

01:54 20 MR. FINDER: Okay. Well, let -- well, we'll -- so I
21 won't have it open-ended, let me ask the question.

22 JUDGE BENAVIDES: Go ahead.

23 BY MR. FINDER:

24 Q. During the time you were giving Creely and Amato and the
01:55 25 law firm curatorships and you were getting cash back, was that

01:55 1 cash that you received a kickback for the curatorship, in your
2 mind?
3 A. No, sir.
4 Q. Not in your mind?
01:55 5 A. Not in my mind.
6 JUDGE BENAVIDES: Let me ask a question. According --
7 and it's -- you have been afforded the grand jury testimony, we
8 have seen the grand jury testimony, everybody has seen the
9 grand jury testimony. But it would seem that there is
01:55 10 testimony before the grand jury that there was a return in the
11 exact same amount, minus expenses, of the curatorship that was
12 returned to you, according to one of the witnesses.
13 THE WITNESS: That's apparently what it says. I
14 agree.
01:55 15 JUDGE BENAVIDES: Is that true or not?
16 THE WITNESS: Not -- to the best of my knowledge, that
17 is not correct.
18 JUDGE BENAVIDES: You would not know whether you would
19 receive the same money after appointing someone a curator that
01:55 20 he would get, minus his expenses?
21 THE WITNESS: I don't recall that occurring.
22 You're ask -- again, we're back to 1994 and before. I know I
23 sent them curators --
24 JUDGE BENAVIDES: You know, you have immunity --
01:56 25 THE WITNESS: I know.

01:56 1 JUDGE BENAVIDES: -- from all criminal prosecution --
2 THE WITNESS: I understand.
3 JUDGE BENAVIDES: -- except perjury.
4 THE WITNESS: I understand that.
01:56 5 JUDGE BENAVIDES: And your -- and, so, that would
6 be -- if it matched the expense -- the amount each time --
7 THE WITNESS: I don't --
8 JUDGE BENAVIDES: -- except for expenses, that would
9 be a coincidence?
01:56 10 THE WITNESS: I don't know if it matched each time.
11 That's all I can tell you, Judge. I don't know.
12 JUDGE BENAVIDES: I understand.
13 BY MR. FINDER:
14 Q. Didn't you start sending -- Judge Porteous, didn't you
01:56 15 start sending curatorships over to Mr. Creely when he demurred
16 to get -- give you more money?
17 A. I've read his testimony. I know that's what he says. I
18 just -- he "demurred."
19 Q. Maybe I'll use a different word instead of "demurred."
01:57 20 A. "Refused."
21 Q. Objected to or refused to give you more money, isn't that
22 when the curatorships started?
23 A. I don't know the date the curatorships started; so, I can't
24 tell you that.
01:57 25 Q. Do you recall --

01:57 1 A. I don't remember when I first started sending them.
2 Q. Do you recall calling Mr. Creely's secretary and saying,
3 "How much have you received in curatorships" before asking for
4 money?
01:57 5 A. I don't recall calling her. I'm not saying I've never
6 spoken with his secretary.
7 Q. Do you recall Mr. Creely refusing to pay you money before
8 the curatorships started?
9 A. He may have said I needed to get my finances under control,
01:57 10 yeah.
11 Q. And the curatorships, therefore, would be a source of
12 income for Mr. Creely -- to pass through Mr. Creely and his
13 firm to you, correct?
14 A. That's a speculation or opinion. I don't -- I don't know
01:57 15 what you want to call it.
16 Q. What is your recollection in May or June of 1999 of going
17 on a fishing trip with Mr. Amato? Do you recall going on a
18 fishing trip?
19 A. I know I went with Jake on a trip with Mitch Mullin.
01:58 20 Q. Actually, you went on a lot of fishing trips with Amato and
21 Creely, mainly Creely.
22 Have you heard of a place called Delacroix?
23 A. Oh, yeah, "Delacroix."
24 Q. "Delacroix." Excuse me for my mispronunciation.
01:58 25 That's property that he either owned or had a

00:58 1 lease on, correct?
2 A. Correct.
3 Q. And fishing would often take place there, correct?
4 A. Oh, yeah.
01:58 5 Q. And not just you but other elected officials would be
6 invited?
7 A. The judges, yes.
8 Q. And you went fishing there numerous times?
9 A. Over the years?
01:58 10 Q. Yes.
11 A. Yeah.
12 Q. You never were charged for any mode of --
13 A. No, sir.
14 Q. -- transportation, any refreshments, things of that nature?
01:58 15 A. No, sir.
16 Q. All right. So, getting back to the fishing trip with
17 Mr. Amato in May or June of 1999, which you -- which you
18 referenced, you brought up, Mr. Amato -- do you recall telling
19 Mr. Amato in a very emotional way that you had a wedding coming
01:59 20 up and you needed cash?
21 A. I did have a wedding coming up. You're asking me if I -- I
22 don't recall a conversation with Jake.
23 Q. Who was getting married?
24 A. Timmy.
01:59 25 In '99?

00:59 1 Q. Yes.
2 A. Timmy.
3 Q. Your son Timmy?
4 A. Right.
01:59 5 Q. And that's the bachelor party you also went to in
6 Las Vegas. We'll get --
7 A. That's correct.
8 Q. -- to in a moment. Correct?
9 A. Correct.
01:59 10 Q. Well, whether or not you recall asking Mr. Amato for money
11 during this fishing trip, do you recall getting an envelope
12 with \$2,000 shortly thereafter?
13 A. Yeah. Something seems to suggest that there may have been
14 an envelope. I don't remember the size of an envelope, how I
01:59 15 got the envelope, or anything about it.
16 Q. Do you recall sending Rhonda Danos over to get the
17 envelope?
18 A. Rhonda has gone to Jake and Bob's office on numerous
19 occasions. I don't even know if she went in '99.
02:00 20 Q. Judge, I know 1999 was almost a decade ago; but if you
21 received an envelope from lawyers -- a sealed envelope that had
22 a couple thousand dollars cash in it, do you think you would
23 remember that?
24 A. That's what I'm saying. I don't know if it was a sealed
p2:00 25 envelope, a bank envelope, or what.

00:00 1 Q. Okay. Let me --
2 JUDGE LAKE: Wait a second. Is it the nature of the
3 envelope you're disputing?
4 THE WITNESS: No. Money was received in envelope.
02:00 5 JUDGE LAKE: And had cash in it?
6 THE WITNESS: Yes, sir.
7 JUDGE LAKE: And it was from Creely and/or --
8 THE WITNESS: Amato.
9 JUDGE LAKE: -- Amato?
02:00 10 THE WITNESS: Yes.
11 JUDGE LAKE: And it was used to pay for your son's
12 wedding?
13 THE WITNESS: To help defray the cost, yeah.
14 JUDGE LAKE: And was used --
02:00 15 THE WITNESS: They loaned -- my impression was it was
16 a loan.
17 JUDGE LAKE: And would you dispute that the amount was
18 \$2,000?
19 THE WITNESS: I don't have any basis to dispute it.
01:03 20 JUDGE LAKE: All right. Thank you.
21 BY MR. FINDER:
22 Q. Your impression was that it was a loan was what you just
23 said, correct?
24 A. Yes.
02:00 25 Q. Did you ever pay back the loan?

02:00 1 A. No, I didn't. I declared bankruptcy in 2001; and, of
2 course, I didn't list it.
3 Q. But it wasn't listed as paid --
4 A. No, it wasn't listed.
02:01 5 Q. So, did you ever pay back the loan --
6 A. No.
7 Q. -- was my question.
8 A. No.
9 Q. Then, it was income. Is that right?
02:01 10 A. You're saying it's income. If that's what the rules
11 provide --
12 Q. Sir, I don't say anything. I'm asking you a question.
13 If it's a loan and it's not paid back, you're a
14 federal judge, you know some law --
02:01 15 A. It's income.
16 Q. -- it's income, right?
17 A. All right.
18 Q. But it was never reported on your tax returns, was it?
19 A. No, it was not.
02:01 20 Q. It was never reported on the judicial disclosure form under
21 "Other Income," was it?
22 A. No.
23 Q. Let's talk about the bachelor party.
24 A. All right.
02:01 25 Q. In approximately May of 1999, your son Timmy was going to

01:01 1 get married that summer, correct?
2 A. Right.
3 Q. And Rhonda, I believe, even helped with the arrangements
4 for a party, for you, some of your lawyer and non-lawyer
02:01 5 friends, and Timmy to go to Las Vegas, correct?
6 I believe you stayed at New York-New York?
7 A. No. I believe we stayed at Caesars.
8 Q. Was it Caesars? Maybe it was just the ride at New York-New
9 York. There was a picture taken. Do you remember that?
02:02 10 A. Yeah, there was a -- some kind of amusement there.
11 Q. Now, lawyers paid for you to go, did they not? They gave
12 you money to go on that trip, did they not?
13 A. I believe the allegations are that there was a ticket that
14 Forstall had purchased at some point, that I used.
02:02 15 Q. Mr. Forstall is Chip Forstall, right?
16 A. Right.
17 Q. He gave you a ticket; and then he ended up not going,
18 correct?
19 A. Not for this trip. This was another trip.
02:02 20 Q. Okay. The other trip was to San Francisco, I believe; and
21 he didn't go?
22 A. None of us went.
23 Q. Okay. But you had the ticket?
24 A. Right.
02:02 25 Q. And you used that ticket, you're saying, to go to

02:02 1 Las Vegas?
2 A. I may have.
3 Q. Well, once you get to Las Vegas, you have to stay in a
4 room, right?
02:02 5 A. Right.
6 Q. You didn't pay for the room, did you?
7 A. It appears I did not.
8 Q. And do you know who paid for it?
9 A. It appears Mr. Creely paid for it.
02:02 10 Q. Mr. Creely, that's right.
11 Now, that was over a period of approximately four
12 days, as I recall, from the records?
13 A. Three or four.
14 Q. Three or four.
02:03 15 That exceeded \$250 total for the room, correct?
16 A. Yeah.
17 Q. Did that ever appear on your judicial --
18 A. No, it did not.
19 Q. -- your form that you file with the administrative office?
02:03 20 A. No, it did not.
21 Q. It did not.
22 Although you considered that a gift, correct?
23 A. Yeah, it was a gift. I mean, Creely got there before we
24 all did. I know he checked me in.
02:03 25 Q. And it wasn't just for you. It was also for Timmy?

01:03 1 A. What?
2 Q. Timmy stayed for free?
3 A. Not because of Mr. Creely.
4 Q. Well, somebody paid for Timmy, right?
02:03 5 A. I went down and asked the casino to comp their room, and I
6 think they did.
7 Q. So, if -- so, it's your testimony here today it was not
8 Mr. Creely or one of your other friends that picked up the tab
9 for his room?
02:03 10 A. Not that I -- for Timmy's room?
11 Q. For Timmy.
12 A. No, sir, not that I'm aware of.
13 I'm trying to remember who was in that room.
14 Probably all my sons were in that room.
02:04 15 Q. And when you were in Las Vegas, you had to eat?
16 A. Yes.
17 Q. And you didn't just eat in the hotel you were staying at;
18 you ate in other places, too, correct?
19 A. We had one outside meal that I can recall.
02:04 20 Q. But you didn't pay for that meal, did you?
21 A. No, I did not.
22 Q. Who paid for it?
23 A. A variety -- I think Creely did and maybe some other people
24 picked up various portions.
02:04 25 Q. But the bottom line is that wasn't comped?

01:04 1 A. That was not comped.
2 Q. And when I say "comped," I'm talking about complimentary --
3 A. No.
4 Q. -- where a hotel --
02:04 5 A. No.
6 Q. -- would pick up the fee, correct?
7 A. No.
8 Q. And nothing from that trip to Las Vegas, for you and your
9 sons -- who was your other son, by the way, that went?
02:04 10 A. Michael.
11 Q. Michael.
12 Nothing that went to you or your two children, in
13 your immediate family, was ever reported under a judicial
14 disclosure form, correct?
02:05 15 A. No, sir.
16 JUDGE BENAVIDES: How old were the children at that
17 time?
18 MR. FINDER: I'm sorry?
19 JUDGE BENAVIDES: How old were the boys at that time?
02:05 20 THE WITNESS: Give me a second, Judge. '99?
21 JUDGE BENAVIDES: Oh, let me ask --
22 THE WITNESS: 28, 26, and 23.
23 JUDGE BENAVIDES: Okay. They weren't dependents
24 living at home?
02:05 25 THE WITNESS: Oh, no, sir.

02:05

1 JUDGE BENAVIDES: All right.

2 JUDGE LAKE: Did Mr. Creely or Mr. Amato or the other
3 attorneys reimburse the casino for any gambling losses you had,
4 Judge?

02:05

5 THE WITNESS: Absolutely not.

6 BY MR. FINDER:

7 Q. Let me jump ahead, then, in light of that question. On
8 Exhibit 48 -- I believe it's 48 -- yeah, Bates Number 997, 998,
9 the records from Caesar -- I believe that is from Caesars
10 Palace.

02:06

11 A. All right.

12 Q. May 20th, 1999, that's when you were in Las Vegas for the
13 bachelor party, correct?

14 A. I believe so.

02:06

15 Q. Okay. Well --

16 A. May -- I know we went '99. It's before the wedding.
17 That's the right date.

18 Q. I mean --

19 A. It's before the wedding.

02:06

20 Q. For the record, that's your name, correct?

21 A. Right.

22 Q. And that's the city where you live, correct?

23 A. Right.

24 Q. And were you also there in October of '99?

02:06

25 A. Certainly appears that I was.

02:06 1 Q. Okay. Well, let's talk about May.
2 A. All right.
3 Q. May 20th, 1999, looks like gambling losses of \$1200,
4 correct?
02:06 5 MR. FINDER: And we're going to follow up with a
6 summary witness on this, but I wanted to jump ahead.
7 JUDGE BENAVIDES: I don't know if you got a response
8 to that last question.
9 MR. FINDER: I'm going to clarify it with the next
02:07 10 page.
11 BY MR. FINDER:
12 Q. In all fairness, since -- I should have asked you this
13 question, Judge. Forgive me.
14 A. All right.
02:07 15 Q. Have you ever seen this record before?
16 A. If it's one of the exhibits, I know you sent it to me.
17 Q. Yes. It's from Exhibit 48.
18 A. Okay. But I don't recall -- I didn't look at it. If you
19 sent it to me, I've got it.
02:07 20 Q. Okay. The very next page, Bates Number 998 --
21 A. All right.
22 Q. -- the same exhibit, 48 --
23 A. Fine.
24 Q. -- it shows from the period May 20 to May 22. And on the
02:07 25 prior page, we were talking about May 20. So, that's

02:07 1 consistent, correct?
2 A. All right. All right.
3 Q. "Win/loss," and it shows negative -- or 1,200 with a minus
4 sign, correct?
02:08 5 A. Yeah.
6 Q. Would that suggest to you that's a loss of \$1200?
7 A. It appears to be.
8 Q. Okay.
9 A. Okay. Wait. Let me just see something.
02:08 10 Okay. All right.
11 Q. For the record, that's the number, "998"?
12 A. Yeah.
13 Q. Now, as you said, you were only in Las Vegas for about
14 three or four days, right?
02:08 15 A. Yeah.
16 Q. Okay. Let's look at your Fidelity Bank statement for
17 May 25th. Shows a deposit of \$5,000?
18 A. Correct.
19 Q. Was that -- were those winnings?
02:08 20 A. They were.
21 Q. So, you won at some casino, even though it wasn't the one
22 we just looked at?
23 A. I was able to bring that much money home, but it was still
24 owed on credit cards. So, I -- when you say it was a winning,
02:08 25 I basically broke even when you added it all up.

02:08 1 Q. So, let's get this straight. You've -- your amended
2 petition was filed -- or your bankruptcy, was filed in 2000.
3 About six months -- or nine months, perhaps, before that, you
4 were in Las Vegas, gambling, and you came back with \$5,000
02:09 5 after you lost about 1200 at a different casino, correct?
6 A. I don't know if it's a different casino.
7 Q. It could have been the same one?
8 A. Could have been the same one.
9 Q. Well, but the records don't show winnings, do they?
02:09 10 A. You know -- well, when you're playing at a table and
11 winning, casinos do not traditionally keep track of that.
12 That trip, if you have those records, I think
13 would probably establish that the markers I signed on the very
14 first night there were paid off that very same day; but they
02:09 15 don't show the -- how the money was given out. They just don't
16 do it that way. That's between the casinos and how they
17 transact business. You're not given a 1099.
18 So, all I can tell you is I did win.
19 Q. So, it's your testimony that that money, the 5,000, was
02:10 20 from gaming; it wasn't from lawyers or friends?
21 A. Came from no one.
22 Q. Okay.
23 JUDGE BENAVIDES: What was the difference? 3800,
24 roughly?
02:10 25 MR. FINDER: Yes, sir.

02:10 1 BY MR. FINDER:
2 Q. Judge, do you remember a case called "Liljeberg"?
3 A. I do.
4 Q. Very complex litigation, wasn't it?
02:10 5 A. I would say.
6 Q. As a matter of fact, before you got it, I think it went
7 through several district judges.
8 A. Oh, it went through a bunch of different judges.
9 Q. And, then, one day it ended up in your court; and you were
02:10 10 ultimately the trial judge, correct?
11 A. Right.
12 Q. That lawsuit, sir, was filed -- well, let's not guess.
13 Let me show you what's been marked as Exhibit 82.
14 Do you recognize this as the docket sheet for Liljeberg?
02:11 15 A. Exhibit 82.
16 Q. That's what I have up on the screen.
17 A. Yeah, that would be the docket sheet, which seems to
18 indicate it was filed in '93.
19 Q. What did I say?
02:11 20 A. May --
21 Q. I'm sorry. June 1, 1993. What did I say?
22 A. I don't know.
23 Q. I thought you --
24 A. No, no.
02:11 25 Q. -- said I misspoke.

02:11 1 Okay. Does this appear to be the docket sheet?
2 I'm happy to show it to you.
3 A. Yeah, it appears to be the docket sheet.
4 Q. All right. Let's look at the some of the lawyers on there.
02:11 5 We already talked about this gentleman, Joe -- Joseph Mole --
6 A. Right.
7 Q. -- correct?
8 A. Right.
9 Q. And Don Gardner?
02:11 10 A. Right.
11 Q. Now, Don Gardner, as you said, as far as you know, isn't a
12 federal court practitioner?
13 A. No, as far as I know.
14 Q. And this is a complex case?
02:11 15 A. Very complex.
16 Q. But he's your buddy and he's appearing for the plaintiff,
17 correct?
18 A. Correct.
19 Q. Let's look at some of the defense lawyers.
02:11 20 MR. WOODS: Appearing for the defense.
21 MR. FINDER: "Plaintiff, Lifemark."
22 MR. WOODS: Okay.
23 BY MR. FINDER:
24 Q. For the defendant in Liljeberg -- on -- this docket sheet
02:12 25 says "Defendant Liljeberg," correct?

01:12 1 A. Right.
2 Q. Jacob Amato?
3 A. Right.
4 Q. Who was -- unlike his partner Mr. Creely, who did MDL
02:12 5 cases, Mr. Amato typically didn't do this kind of case, did he?
6 A. I would think that's correct.
7 Q. You don't think I'm correct?
8 A. No. I would think that was correct.
9 Q. Oh, forgive me.
02:12 10 Lenny Levenson?
11 A. Correct.
12 Q. Also not typically trying these type of cases in federal
13 court, correct?
14 A. He -- maybe not federal court, but he did some fairly
02:12 15 complex litigation.
16 Q. Both of whom are your friends, correct?
17 A. Absolutely.
18 Q. And I believe, according to the docket sheet, the case was
19 originally filed June 1, 1993. That's what it says, right?
02:12 20 A. That's what it says.
21 Q. June 1, 1993.
22 A. All right.
23 Q. Now, let's jump ahead to September 19th, 1996. The case
24 has been around for two years, right?
02:13 25 A. Right.

02:13 1 Q. Motion by Party Liljeberg to bring in, among the following
2 attorneys, Jacob Amato and Lenny Levenson, correct?
3 A. Right.
4 Q. You're the judge at this point, right?
02:13 5 A. Right.
6 Q. And you allow them in?
7 A. Yeah.
8 Q. Okay. I skipped one.
9 Let's go back to April 4th, 1996. Lifemark
02:13 10 brings in Joe Mole --
11 A. All right.
12 Q. -- to be one of their lawyers, right?
13 A. Yeah, right.
14 JUDGE BENAVIDES: What was the name? Was that Mole?
02:13 15 MR. FINDER: M-O-L-E, Joe Mole, Joseph Mole.
16 BY MR. FINDER:
17 Q. Then, on September 12th -- and I think we covered this on
18 September 19th, but on September 12th it looks like St. Jude
19 Hospital brings in Lenny Levenson, correct?
02:14 20 A. Right.
21 Q. But St. Jude was affiliated with Liljeberg, right?
22 A. I believe that's correct.
23 Q. And that's why a week later, on September 19th, Levenson is
24 joined by Jake Amato, right?
02:14 25 A. Yeah.

02:14 1 Q. Okay. Both of whom I believe you said typically wouldn't
2 be in this kind of case.
3 A. I'm not saying Levenson wouldn't, but Amato typically would
4 not be in this kind of case. Not that he didn't have the
02:14 5 capacity, he just typically wouldn't be in this kind of case.
6 Q. Okay. Then October 2nd, 1996 --
7 A. All right.
8 Q. -- Plaintiff Lifemark files a motion to recuse you,
9 correct?
02:15 10 A. Right.
11 Q. And that is scheduled for a hearing, if I'm reading this
12 docket order right, on October 16th, 1996, correct?
13 A. Correct.
14 Q. All right. Frankly, I can't figure out what day you heard
02:15 15 the motion to recuse. Maybe it was by submission. But it
16 looks like on October 17th -- on -- I'm sorry. October 17th
17 the hearing was held.
18 You deny Lifemark's motion to recuse, correct?
19 A. Right.
02:15 20 Q. I'm sorry?
21 A. Yes.
22 Q. All right. After Lifemark loses -- well after -- on
23 March 11th, 1997, they bring in your other friend, Don Gardner,
24 right?
02:15 25 A. Correct.

02:15 1 Q. Who also, as I believe you testified before, typically
2 wouldn't be in this kind of case?
3 A. Absolutely.
4 Q. He's a divorce lawyer, right?
02:16 5 A. Right.
6 Q. Or family lawyer. I don't mean to disparage any area --
7 kind of practice.
8 A. Call him a divorce lawyer.
9 Q. Okay. I'm only saying what he calls himself.
02:16 10 A. I understand.
11 Q. And did you think it was unusual for lawyers that don't
12 typically practice in this kind of complex litigation to, all
13 of a sudden, appear before you?
14 A. Yeah, sure do.
02:16 15 Q. Did that concern you or trouble you?
16 A. No, only to the extent that somebody thought they needed to
17 bring somebody else in.
18 Q. Well, did you ever bring it to the attention of any party
19 that, "Hey, guys, here's -- here's Amato and Creely. They've
02:16 20 given me money in the past. I want you to know about that
21 because under the canons of ethics I'm supposed to avoid the
22 appearance of impropriety and tell you about these kind of
23 things and recuse myself if the parties have an objection"?
24 A. I didn't do that.
02:16 25 Q. So, looks like Mr. Mole, on behalf of Lifemark, brings in

02:17 1 Don Gardner to kind of even the playing field, so to speak,
2 correct?
3 A. That's --
4 Q. For whatever reason he had, he brought in Mr. Gardner,
02:17 5 right?
6 A. Correct.
7 Q. Because he's already lost the recusal motion, right?
8 A. I don't know if that's why, but he -- he brought him in.
9 Q. Well, it followed the recusal?
02:17 10 A. It followed the recusal.
11 Q. Now, we have a non-jury trial, a bench trial, correct?
12 A. Yeah.
13 Q. And that starts June 16th, 1997?
14 A. Right.
02:17 15 Q. And that's some years after this lawsuit has been filed,
16 correct?
17 A. Yeah.
18 Q. Moving ahead to April 26th -- tried June 16th, and it looks
19 like the trial went, according to -- if I'm reading this right,
02:17 20 Smootherman --
21 A. It ran on for a period of time.
22 Q. At least until July 23rd, 1997, correct, because it says,
23 "matter taken under submission" --
24 A. Yes. Yes.
02:18 25 Q. -- 1997. And judgment was not rendered until April 26,

02:18 1 2000, if I'm reading this right --
2 A. You're reading correctly.
3 Q. -- when you had your findings of fact, conclusions of law?
4 A. Right.
02:18 5 Q. Not to beat a dead horse, Judge Porteous, but you've told
6 this panel that Amato and Creely have given you money, although
7 you can't remember specifics, and you think that Gardner has
8 given you money, but that was not disclosed to any of the other
9 lawyers in this case, correct?
02:18 10 A. That was not.
11 Q. Lenny Levenson -- I'm sorry.
12 Don Gardner was -- you stood up at his wedding,
13 correct?
14 A. I went to his wedding. I don't know if I was in it; but,
02:19 15 yeah, I went to his wedding.
16 Q. And you're the godfather of his daughter -- one of his
17 daughters, right?
18 A. Uh-huh.
19 Q. And, Judge Porteous, as we just looked on the docket sheet,
02:19 20 Liljeberg was pending in 19 -- in May, June, 1999 --
21 A. It was.
22 Q. -- when you went to Vegas courtesy of Creely and others and
23 when you got an envelope, whether it's a banker's envelope or
24 manila, some kind of envelope from the Creely-Amato law firm,
02:19 25 right?

02:19 1 A. Yes, sir, it was pending.
2 Q. That was during the pendency of that lawsuit?
3 A. Right.
4 Q. You didn't tell anybody about that, did you?
02:20 5 A. I did not.
6 MR. FINDER: May I have a moment to confer with my
7 co-counsel?
8 CHIEF JUDGE JONES: Sure.
9 *(Sotto voce discussion between counsel)*
02:20 10 MR. FINDER: Judge, may we -- Judges -- excuse me --
11 may we have a ten minute break?
12 CHIEF JUDGE JONES: Yes.
13 MR. FINDER: Thank you.
14 CHIEF JUDGE JONES: Sure. Ten minutes?
02:20 15 THE WITNESS: I -- at 2:30? I mean --
16 CHIEF JUDGE JONES: Yes, till 2:30.
17 THE WITNESS: Okay.
18 CHIEF JUDGE JONES: Thank you.
19 *(Recess taken from 2:20 p.m. to 2:35 p.m.)*
02:35 20 MR. WOODS: We're excusing Claude Lightfoot from our
21 witness list, but Judge Porteous may want to call him; so, he's
22 going to be on call for --
23 MR. WINSBERG: We'll be available if there's any need.
24 CHIEF JUDGE JONES: All right.
02:36 25 MR. WOODS: And we are also excusing Don Gardner.

02:36 1 JUDGE LAKE: I want to ask -- may I ask Judge Porteous
2 a question about Mr. Gardner?

3 MR. WOODS: Yes, your Honor. I think Mr. Finder was
4 going to finish up; and then we were going to allow him to
02:36 5 either testify or for you-all to ask questions, however -- what
6 procedure do you want to follow?

7 JUDGE LAKE: Let me just ask him a question.

8 Judge Porteous, during the Liljeberg case, while
9 you were assigned to the case, did Mr. Gardner give you any
02:36 10 money or give you any consideration of any type, in the form of
11 expenses for trips or anything of that nature?

12 THE WITNESS: No, Judge, not to my recollection, he
13 did not. Now, the bachelor party, of course, being at the same
14 time, I'm not saying that when we were in Vegas he didn't buy a
02:36 15 round of drinks or something; but to the best of my knowledge,
16 no.

17 JUDGE LAKE: Okay. So, other than the bachelor party,
18 you don't recall Gardner giving you anything of value during
19 the pendency of the Liljeberg case?

02:37 20 THE WITNESS: No, I do not, Judge.

21 JUDGE LAKE: Thank you.

22 THE WITNESS: He and I have been friends for a long --

23 JUDGE BENAVIDES: And you're fixing to let Gardner
24 leave?

02:37 25 MR. WOODS: Yes, your Honor.

02:37 1 JUDGE BENAVIDES: What do we have with respect to
2 Gardner's role, if any, in the bachelor party and the time
3 period for that?
4 MR. WOODS: Merely the fact that he attended,
02:37 5 your Honor. We have no testimony from Gardner that he gave him
6 money during that period of time.
7 JUDGE BENAVIDES: During the time that he was
8 associated with the Liljeberg case?
9 MR. WOODS: Yes, your Honor. Yes, your Honor.
02:37 10 MR. FINDER: All right. May I finish up now?
11 JUDGE LAKE: Yes.
12 BY MR. FINDER:
13 Q. Judge Porteous, I showed you Exhibit 80 when we started off
14 this morning --
02:38 15 A. You did.
16 Q. -- your oath. Do you feel you have given true faith and
17 allegiance to the United States since you've been a United
18 States District Judge?
19 A. Yes, because I've been fair and impartial in every
02:38 20 proceeding that comes before me.
21 MR. FINDER: No further questions of the witness.
22 CHIEF JUDGE JONES: Are you going to ask some more
23 questions about the casino markers?
24 MR. FINDER: About what, your Honor?
02:38 25 CHIEF JUDGE JONES: Are you going to ask more

02:36 1 questions about the casino markers?

2 MR. WOODS: We're going to have a witness testify
3 about those.

4 MR. FINDER: Not of this witness, but we are going to
02:38 5 ask more questions of other witnesses.

6 CHIEF JUDGE JONES: Okay.

7 Judge Porteous, if you had all this to do over
8 again, would you have filed different financial disclosure
9 statements?

02:39 10 THE WITNESS: Likely, Judge. I mean, maybe now in
11 hindsight some of it was -- should have been included. The
12 debt was -- the failure to list the correct debt, that was
13 right after the bankruptcy. It was like the end of the world.
14 I mean, my wife was nervous, a wreck, upset. My finances were
02:39 15 all over the paper. Everybody in America knew my finances. It
16 was just inadvertence, not any intent to hide my finances.

17 Hell, they were part of the bankruptcy record.
18 They were all over the newspaper.

19 JUDGE BENAVIDES: All right. The letter from
02:39 20 Lightfoot to the creditors made specific reference to the
21 exclusion of the -- to exclude this bank with the \$5,000 loan.
22 Why was there a specific reference to exclude them from those
23 unsecured creditors that you and Lightfoot were seeking a
24 workout agreement with?

02:40 25 THE WITNESS: Buddy Butler, as I said before, was --

02:40 1 is and was a friend of mine. To the extent possible, I wanted
2 to try and pay Buddy back all of his money.

3 JUDGE BENAVIDES: So, you don't, then, disagree
4 that -- that this bank was not put -- or reported in your
02:40 5 bankruptcy proceeding as an unsecured creditor, that that was
6 purposefully done?

7 It was done because you wanted to take care of
8 what you thought was an obligation to a good friend; but there
9 was a specific, conscious decision to exclude it from --
02:41 10 exclude them as -- from your list of unsecured creditors?

11 THE WITNESS: No, no, not from my ultimate list of
12 unsecured creditors. They were listed as -- when I filed the
13 bankruptcy. But in the potential attempt to avoid bankruptcy,
14 Claude Lightfoot attempted to work out payoffs with all of
02:41 15 these creditors where I would pay them X percentage, but I was
16 omitting Regions from that.

17 JUDGE BENAVIDES: You conscious -- it seems like there
18 was a conscious desire in the workout agreements not to include
19 the bank with the \$5,000 loan to it.

02:41 20 THE WITNESS: That's correct.

21 JUDGE BENAVIDES: And then -- and, then, there was a
22 provision, with respect to payments made prior to the
23 bankruptcy filing, which would have been -- which would have
24 shown that -- well, it's kind of like they weren't there but
02:42 25 they -- did you actually pay them off?

02:42 1 Actually, they wound up not protected, right,
2 with the rest of the unsecured creditors?
3 THE WITNESS: Who is that, Judge?
4 CHIEF JUDGE JONES: The Regions Bank.
02:42 5 JUDGE BENAVIDES: Regions Bank.
6 THE WITNESS: They were always an unsecured creditor.
7 JUDGE BENAVIDES: And you're saying that every
8 application that you've had, everything that you had in the --
9 in the bankruptcy court listed the bank?
02:42 10 THE WITNESS: Oh, in the bankruptcy court?
11 Absolutely.
12 CHIEF JUDGE JONES: I guess what rings a bit hollow --
13 and maybe you can comment on this, because it's not quite a
14 question. But you say you thought -- were thinking you wanted
02:42 15 to treat your friend fairly. Well, you didn't write down the
16 Fleet Credit Card, and that got paid off so you could maintain
17 that while the bankruptcy was going on. And, then, you also
18 continued to pay off some of the gambling debts. But you could
19 have -- you could have excluded Fleet and paid that one on the
02:42 20 side, too, even though that wouldn't be standard bankruptcy.
21 THE WITNESS: Judge, I've read Mr. Lightfoot's grand
22 jury testimony; and I see that Fleet was paid off. I see that.
23 CHIEF JUDGE JONES: By your secretary.
24 THE WITNESS: Yeah, it appears it was paid by my
02:43 25 secretary. It was. That is a card -- it was my wife's card.

02:43 1 My understanding --

2 JUDGE BENAVIDES: Did you --

3 THE WITNESS: My understanding was all the cards were
4 torn up. I did not know she had kept that card active until
02:43 5 well after the fact. And that is something she should not have
6 done, but she did. And I've got no defense for her, but she
7 did.

8 JUDGE BENAVIDES: Who is that that shouldn't have done
9 that?

02:43 10 THE WITNESS: My wife.

11 JUDGE BENAVIDES: Not the secretary? It wasn't the
12 secretary that shouldn't have paid it?

13 THE WITNESS: No, I'm not talking about the payment.
14 I'm talking about the use of the card thereafter, Judge.

02:43 15 That is just something I regret her doing. As
16 you can tell, it had some casino charges on it, probably
17 several. I don't know when that card was ultimately ended.
18 But I thought she had torn up and cut up all the cards, but
19 that apparently did not happen.

02:44 20 CHIEF JUDGE JONES: So, she paid that with her
21 separate income?

22 THE WITNESS: I don't know how it got paid, Judge. It
23 probably came out of my checking -- most of the times checks
24 written on my checking account -- I know you-all find this
02:44 25 incredible but -- I may have some checks there that I signed,

01:44 1 but the -- my wife dealt with paying the bills. So, I just --
2 CHIEF JUDGE JONES: That's not what Rhonda Danos said.
3 THE WITNESS: My home bills, my wife -- all you had --
4 I'm sure they have the checks. You'll find that her name
02:44 5 appears on 90 percent of them. So, I don't know what Rhonda
6 Danos may say about that.
7 JUDGE BENAVIDES: Well, how would -- how would
8 Ms. Danos -- I'm just trying to understand. If your wife
9 normally took care of those type of bills, how would have Danos
02:44 10 been authorized or why she would -- why would she have paid
11 that bill?
12 THE WITNESS: I don't -- I didn't know that -- till I
13 just saw it, I didn't realize it happened. I don't know,
14 Judge. I can't give you an answer. I'm just being
02:45 15 straightforward with you. I can't tell you why. I don't know.
16 What I would like to do is make a statement in
17 response to that, but I'd rather wait till they complete their
18 case before I do that.
19 CHIEF JUDGE JONES: That's fine.
02:45 20 THE WITNESS: Okay?
21 CHIEF JUDGE JONES: Yes.
22 MR. WOODS: Our next witness is Joseph Mole, and
23 Robert Creely and Amato are on their way. They were ten
24 minutes away, and they were called five minutes ago. So,
02:45 25 they -- those are our next three witness.

02:45 1 JUDGE BENAVIDES: Mole will be a short witness?
2 MR. WOODS: Joseph Mole will be a very short witness,
3 your Honor.
4 And I have offered -- based on Judge Porteous'
02:45 5 testimony, I have offered whether or not he wants to stipulate
6 to the grand jury testimony of Creely and Amato -- and I think
7 he wanted to consider that -- in lieu of -- in lieu of their
8 testimony.
9 JUDGE LAKE: Why don't you call Mr. Mole, then?
02:46 10 MR. WOODS: Yes, sir. He's just right here in the
11 hall. It will just take a moment.
12 Will you ask Mr. Mole in Room 204 to come in?
13 *(Witness being summoned to the stand)*
14 CHIEF JUDGE JONES: Is Ms. Danos coming on as a
02:46 15 witness?
16 MR. WOODS: Yes, your Honor.
17 Mr. Mole, if you would, come up here, sir.
18 The witness is going to be seated here.
19 And that's his counsel, Pat Fanning, that is with
02:47 20 him, your Honor. He's seated back there.
21 JUDGE LAKE: Raise your right hand.
22 Do you solemnly swear that the testimony that you
23 shall give in this proceeding will be the truth, the whole
24 truth, and nothing but the truth, so help you God?
02:47 25 THE WITNESS: I so swear.

10:09 1 we'll take a ten-minute break. Then you can ask questions.
2 JUDGE PORTEOUS: Thank you.
3 JUDGE LAKE: Are you through -- are you through with
4 the witness, Judge Porteous? I thought you were.
10:09 5 JUDGE PORTEOUS: Well, I thought that's what -- I'm
6 finished with the witness.
7 JUDGE LAKE: Okay.
8 JUDGE PORTEOUS: May I ask a question?
9 CHIEF JUDGE JONES: Yes.
10:09 10 JUDGE PORTEOUS: I intended to call -- well, first, do
11 you want to get into the stipulations?
12 MR. WOODS: Sure.
13 Judge Porteous has agreed to stipulate to the
14 grand jury testimony of Leonard Levenson and Chip Forstall
10:10 15 rather than we calling them as witnesses. And I believe he's
16 agreed also to stipulate to the 302, or the FBI memorandum of
17 interview, of SJ Beaulieu.
18 JUDGE PORTEOUS: With attached correspondence.
19 MR. WOODS: And with attached correspondence. Rather
10:10 20 than us calling Beaulieu, the trustee.
21 JUDGE PORTEOUS: I was just trying to make inquiry --
22 I do have a couple of witnesses I would like to call, but I
23 don't know when to possibly tell these folks to be available.
24 MR. WOODS: Our plan is to put on Jerry Fink next to
10:10 25 get into similar records; and we hope to do that within, you

OT:32 1 And Judge Porteous has some objections he wants
2 to raise as to the grand jury testimony.
3 CHIEF JUDGE JONES: All right.
4 JUDGE LAKE: So, 1 through 96, you're offering?
01:33 5 MR. WOODS: Yes, your Honor.
6 JUDGE PORTEOUS: Only two objections in general. One
7 is to the admissibility of those grand jury transcripts.
8 People have come in and testified. Now, the ones that are
9 stipulated to, obviously they'll go in, Mr. Levenson --
01:33 10 MR. WOODS: Forstall.
11 JUDGE PORTEOUS: -- Forstall, and Mr. Beaulieu, which
12 is a 302. But the others, I would object to. They clearly are
13 hearsay, and they were not subject to cross-examination.
14 And on 91 through 96, which are the summaries, I
-01:33 15 would like the underlying documentation, the forms and stuff,
16 made part of the record.
17 MR. WOODS: We have no objection to that. He's
18 speaking of the exhibits against the wall, which are on a
19 separate exhibit list that's been provided, called "Underlying
01:33 20 Documents." We have no objection to those being admitted into
21 evidence.
22 JUDGE LAKE: Where do you intend to keep -- to lodge
23 the universe of admitted documents for purposes of the record?
24 MR. WOODS: I presume it's going to have to be here,
01:33 25 in the Fifth Circuit somewhere, your Honor.